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US Doc 550.5

CONGRESSIONAL HEARINGS

61st CONGRESS/2nd SESSION

TERRITORIES

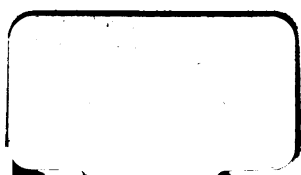
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STATEHOOD

HEARING BEFORE THE COMMITTEE ON
TERRITORIES, UNITED STATES SENATE

ON THE BILL

^A
U.S. Doc 550.5

S. 5916

TO ENABLE THE PEOPLE OF NEW MEXICO TO FORM A
CONSTITUTION AND STATE GOVERNMENT AND BE AD-
MITTED INTO THE UNION ON AN EQUAL FOOTING WITH
THE ORIGINAL STATES; AND TO ENABLE THE PEOPLE
OF ARIZONA TO FORM A CONSTITUTION AND STATE
GOVERNMENT AND BE ADMITTED INTO THE UNION
ON AN EQUAL FOOTING WITH THE ORIGINAL STATES

FEBRUARY 18, 19, 21, 1910

WASHINGTON

GOVERNMENT PRINTING OFFICE

1910



Hon. S. W. McCall
Washington

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ROBERT L. OWEN, Oklahoma.

CHARLES DICK, Ohio.

CHARLES J. HUGHES, Jr., Colorado.

STATEHOOD.

FRIDAY, *February 18, 1910.*

The committee met at 2 o'clock p. m.

Present: Senators Beveridge (chairman), Dillingham, Burnham, Kean, Piles, Frazier, and Hughes.

The CHAIRMAN. This committee received a letter from the governor of the Territory of New Mexico stating that ex-Governor Prince and other gentlemen were coming on to appear before the committee respecting the question of bonds. The committee is now ready to hear them. You can fix between yourselves the order in which you will be heard, and proceed in your own way.

STATEMENT OF HON. L. B. PRINCE, EX-GOVERNOR OF NEW MEXICO.

Mr. PRINCE. It is a novel thing, Mr. Chairman, for a delegation from New Mexico to come before this Committee on Territories in regard to a statehood bill and be relieved from the discussion of what may be called the fundamental principles. We have heretofore had to bring to the attention of this committee and the committee of the other House what is admitted to be the fundamental principles, namely, the right of American citizenship and especially the right to self-government in an American republic. Those seem to us to be fundamental. Now, we are able to be relieved from this and take up matters of detail, particulars of administration. It is as gratifying as it is novel that this condition should exist.

We are all delighted that at last it seems to be conceded that the citizens of the United States lying south of the Colorado line are as well entitled to self-government as those who live north of that imaginary line. As you well know, these matters have been discussed for a long period of time and before the committees of both Houses. The date of this document which I hold in my hand, "United States Senate Committee on Territories," reminds me that twenty years ago this spring I appeared before this committee on this general subject. Since that time, year after year and session after session, we have come, through our representatives, in one way or another, before the Committees on Territories of the two Houses, asking, begging, beseeching, imploring, sometimes, if the speaker happened to be aggressive, demanding admission to the Union by right of our American citizenship; and with the result we all remember.

I rejoice that the day when that is necessary has passed and we have come down to the time when we may look at these details. I rejoice on general principles, I rejoice for myself, standing here before this committee to-day, to speak on this subject, because I must confess what you, perhaps, Mr. Chairman, know, that I have felt so indignant, my American blood has boiled so on this subject of the

deprivation of American citizens of their right to self-government, for a good many years, that it has been almost impossible for me to speak on the general subject with the patience and the consideration which I ought certainly to show.

But you must pardon us for the feeling we have had on that matter. We have felt sometimes that we could not understand the apparent indifference and the lack of appreciation of our condition on the part of some of those who were in the high places in Washington. Then, at last, after years of that experience, it occurred to me that the membership of these committees was made up almost entirely of gentlemen who had never been in a Territory, who had been brought up from their very first in an atmosphere of self-government, who had never known anything else, to whom that was as the sunshine and air, and who could not appreciate that there was any place where American citizens were really deprived of those privileges and rights which they had seen so universally throughout all their lives, that it seemed as if they were almost self-existent things. I have been inclined sometimes to wish that some of the gentlemen so situated could be for a year or a month or a single day—because cruel and unusual punishments are forbidden—placed in a position where they did not have self-government, where the officials placed over them were not of their selection, where they were not responsible for the people whom they governed, or amenable to the public sentiment of the locality, or where, in case they were wrongdoers, there was absolutely no redress.

But those things, fortunately, are matters of the past. Those are the general principles of which I was speaking; and we rejoice that to-day everyone concedes that New Mexico is entitled to statehood, and it is only with regard to particulars and details that it is necessary to speak.

The CHAIRMAN. The committee understood, Governor, that you gentlemen desired to be heard upon these bond matters.

Mr. PRINCE. Of course. I will get to that immediately. I want, if you will allow me, merely to lay the foundation.

Mr. DILLINGHAM. We accept gracefully your criticism of our past actions.

Mr. PRINCE. It was not intended as criticism. It was intended as a basis for an argument for consideration at the present time.

Mr. FRAZIER. I want to say if your criticism is directed at this committee, there are some of us on it that have been in sympathy with the statehood proposition for a great many years.

The CHAIRMAN. The majority of the committee gladly take both the blame and praise. What we want to hear about now is these bonds.

Mr. PRINCE. It was not intended as any criticism, but I was simply endeavoring to lay a kind of foundation.

There are two bills to which our attention has been drawn—a bill which was introduced in the House and which has passed the House, and the bill introduced in the Senate and which is before this committee. One of the things which attracts particular attention in the Senate bill is in regard to what may be considered special safeguards thrown around the constitution, its methods of approval, which are a little different from the ordinary ones. Let me say that we accept with great pleasure anything that can be done in that way which will insure the perfection of a constitution. It is we who are to live

under the constitution, and we want the very best constitution we can possibly have, and everything which will look toward the formation of an excellent constitution is something that is desirable.

Senator FRAZIER. You still want the privilege of making that constitution yourselves?

Mr. PRINCE. Yes, sir; certainly. I will be very brief in this mention. It may be remembered that the people in New Mexico have had more experience in constitution making than any other State; I think I need not say in the United States, but in the world. Within the range of a lifetime they have had five constitutional conventions, and the constitutions they have formed have in every case been exceedingly good, something of which I am not ashamed and something which can hardly be criticised. I hold in my hand the constitution prepared in New Mexico in the year 1889, which has been universally conceded to be one of the best constitutions ever formulated in the country. We have been through it line by line, word by word, and while of course there are new subjects that have come up in more recent constitutions, it was at the time perhaps as perfect an instrument as could very well be found. I will go back, if you will permit me, only a moment—

The CHAIRMAN. Before you get to the bond question, let me ask you this. I understood you to say in private conversation that you highly approved, as you said every other man did who thought of the subject, of the safeguards thrown about the disposition of public lands granted in this bill.

Mr. PRINCE. We approve of the strictest safeguards that can possibly be found in order to insure the perpetuity of that fund and its inviolability.

The CHAIRMAN. Take your time, as you like, but I again direct your attention, because I feel that I must, in view of the committee, to the specific question of this bond issue, in which we are deeply interested.

Mr. PRINCE. If you will permit me only one more allusion to something outside—

The CHAIRMAN. Certainly.

Mr. PRINCE (continuing). Which, in justice to our people, I should mention. I have spoken of this constitution of 1889. I will ask your attention for but one moment to the constitution of 1850—sixty years ago. I hold in my hand a copy of that constitution, which, so far as I know, is the only copy that exists at the present time. It is a constitution of which any people could be proud. Of course there are matters that have come up since that have gone into new constitutions, but it was an admirable document, especially in its arrangements for education. The only trouble with that constitution was that it was too good. New Mexico would have been admitted to statehood at that time—you remember, the state government was put in operation, the election was held, the state officers elected, the legislature elected. It met and elected its Senators and it would have been put in operation if that constitution had not been too good in its proclamation of freedom to all mankind, and in the way in which it stood for a free State instead of a slave State. If it had taken another course, it would have been admitted as an offset to California sixty years ago. But because of the very direct way in which it spoke on the subject, in the first section of its first article, laying

down the enjoying and defending of its right and liberty as being the first thing to which every man was entitled, and then stating in the document accompanying it from the convention that slavery in New Mexico is naturally impractical and in reality never can exist—and wherever it does exist it has proved a curse and misfortune to the State—those were the words which made it too good for the occasion. I allude to that especially because that convention was formed at a time when the population was more than 90 per cent of an element that sometimes has been criticised; in fact, more than 95 per cent. And yet in the face of what was then a dominant influence in the country, they set themselves on that high principle of a free state government.

Now, Mr. Chairman, I will come immediately to the matter to which you alluded a moment ago, simply saying that if New Mexico had been admitted—and I wish to draw attention to this matter as a basis for what we are going to ask—if New Mexico had been admitted under the constitution of 1850, there is no one who is acquainted with the Southwest and the growth of localities who would not admit to-day that New Mexico with its boundaries as they then existed would contain a million and half of people and be one of the richest States there is. If it had been admitted at the time when the United States Senate in the Forty-third and Forty-fourth Congresses by vote of more than two-thirds in each case voted for its admission—and we gratefully acknowledge what we owe to the Senate of the United States at that time—if it had been admitted then, it would have had by the impetus given by statehood, coming in at the same time with Colorado, at least a million people to-day and a very large amount of wealth.

It was not the fault of the people there that it has been deprived of those things and that it has been dwarfed in its improvement, advancement, and growth.

Now, you are going to admit us. We are thankful for it; we are grateful for it. We know that every member of this committee and every Member of Congress is anxious that the new State should be a prosperous State, a happy State, a good State, and that it should have every advantage and opportunity which can properly be given to it in order that it may have that advancement and that prosperity. So we come to ask aid in certain ways, especially on account of some of these deprivations to which we have been subjected in the time past.

In the Senate bill there are a number of blanks opposite the appropriation for territorial institutions.

The CHAIRMAN. I will state there, so that it will not take your time, that the only reason that the number of acres were left blank was so that the committee, in its executive sessions when considering this bill, could put in such amounts of land as seemed right. It was not the intention by leaving those places blank, in the least, to not appropriate these lands for these institutions, not at all. There is a question, for instance, in your own Territory, about the respective amounts of land given to various educational institutions, and it was thought better, at least I did not feel myself prepared at that time to say how much should be given to one and how much to another. So it was thought wise to leave that whole question open. Accordingly you need not fear that those appropriations of land will, of course,

not be made, as seems wise to Congress. That is the whole purpose of leaving that blank.

Mr. PRINCE. I had supposed that was the case. I would be very glad if the figures that appear in what is commonly known as the Hamilton bill in the House could be used by this committee when it comes to its final report.

The CHAIRMAN. Would you say there was enough given by the House, for instance, to the University of New Mexico? Do you agree that the repeal of the saline-land act should continue?

Mr. PRINCE. We would be very glad if the amount for the university, which is the central institution, could be enlarged, but we would be glad to have the amounts stand at least as large as they are in that bill, and I think it is proper to draw attention to the fact that the acreage there in value is very much less than it is, for instance, in the northwestern States of the country, on account of the difference in conditions and the fact that the land, which still remains and which was not taken either in the days of Spain or Mexico, and which has since been occupied in various ways, is arid land of comparatively small value. So that while the acreage might be large, the amount of value concerned is very much smaller than a similar acreage would bring in other places. That is all I have to say in drawing attention to that fact.

In the Hamilton bill there is an appropriation for the payment of the debt of the Territory and of the counties. In other words, to start the new State off with a clean bill of health and without debt; not in the way of money, not in the way of any direct appropriation, but simply by an appropriation of land, a certain number of acres of land appropriated for that purpose, with a provision—and the more strict that can be made, the better—that in case that land brings more than the amount of indebtedness, it will go into the school fund or in some way be properly disposed of.

It appears to us that is one of those things that will be very greatly to the benefit of the new State, if it can start off with an unimpaired credit, start off with a clean bill of health, and start off in such a way that it will attract immigration, which it needs, and the class of immigration it is very desirable it should have. And how, may I ask, could this vacant land in this Territory be better used for future benefit than in the way it is thus indicated?

Senator PILES. The lands of the United States?

Mr. PRINCE. Yes, sir; the lands of the United States. The territorial debt is comparatively small—about a million dollars.

Senator DILLINGHAM. How much?

Mr. PRINCE. One million dollars, almost exactly. The territorial debt is \$1,001,000, practically just a million dollars. You will please remember that the Territory has built every one of its institutions.

The CHAIRMAN. Pardon me just a minute. What did you say the territorial debt was?

Mr. PRINCE. One million dollars.

The CHAIRMAN. From the information reported to the Secretary of the Interior, not contained in the governor's report, the indebtedness is shown to be as follows: Territory, \$1,200,000; territorial certificates, \$92,600; bonded indebtedness to the counties, \$3,242,710, which item is the specific item to which I think this bond question is directed.

Mr. PRINCE. The statement I have here comes from our traveling auditor, and is supposed to be correct.

The CHAIRMAN. What you are driving at now is the so-called county indebtedness?

Mr. PRINCE. Yes, sir.

The CHAIRMAN. Which involves these specific bonds and which constitutes the largest part of the indebtedness, to pay which the 3,000,000 acres of land is appropriated?

Mr. PRINCE. In the county that is true. But we do not wish to be considered as being opposed to this general wiping out of indebtedness if it can be done. We think it would be a very desirable and graceful and proper thing for the Congress of the United States to do, considering it has done nothing for the Territory before in the way of education. I speak of that in contradistinction from the way in which the Philippines have been treated, for instance, in having so much done for them. The Territory and counties have had to build all of their buildings. The United States has built nothing. The Territory has more public buildings than almost any Eastern State. It has built two capitols; it has built a university, a school of mines, an agricultural college, insane asylum, penitentiary, military institute, two other asylums, three normal schools, and other buildings.

The CHAIRMAN. It is only fair at this point to state, when you say the United States has done nothing for the Territory in the way of education, and so forth, that you will admit that very large grants of land have already been made to the Territory for all of these purposes. I have here, to lay before the committee later, the amount of property; so that it is perhaps more accurate to say that instead of doing nothing for the Territory, the Government has done a very great deal in the way of appropriation of actual land for those purposes.

Mr. PRINCE. Down to a very short period ago the Territory never received a dollar in any way from the United States for educational purposes. Those lands, of course, did not come into such use that there was any income from them until very recently, and the appropriation of land is not very many years back. I was trying to distinguish between the manner in which the Government has treated the Philippines and its recent acquisitions and the way it treated its acquisition from Mexico.

Senator KEAN. You do not want to compare?

Mr. PRINCE. I simply compare the way the Government has treated one; treating one as a child and one as an alien, almost.

Now, we should be very glad if the committee would see the propriety of wiping off this indebtedness and starting the Territory clear of debt.

Senator BEVERIDGE. I have here the list of appropriations of land to the Territory, and I find that they aggregate a very large sum of acreage:

For the establishing of permanent water reservoirs for irrigating purposes, 500,000 acres; for the improvement of the Rio Grande in New Mexico and the increasing of the surface flow of water in the bed of said river, 100,000 acres; for the establishment and maintenance of an asylum for the insane, 50,000 acres; for the establishment and maintenance of a school of mines, 50,000 acres; for the establishment and maintenance of an asylum for the deaf and dumb, 50,000 acres; for the establishment and maintenance of a reform school, 50,000 acres; for the establishment and maintenance of normal schools, 100,000 acres; for the establishment and maintenance of an institution for the blind, 50,000 acres; for a miners' hospital for disabled miners, 50,000 acres; for the establishment and maintenance of a military institute, 50,000 acres; for the enlargement and maintenance of the territorial penitentiary, 50,000 acres.

Mr. PRINCE. That has been done principally in late years. I think most of them were made in 1898, if I remember correctly. The time has been so brief that it is only in the last three years that there has been any income. I may be wrong in the year, but it is quite near to that time.

The CHAIRMAN. Twelve years ago.

Mr. PRINCE. Yes; that is exactly correct. While we should be very glad if the committee should take that generous view of the matter to start the Territory off on a career of prosperity in that way—

Senator FRAZIER. May I ask what relation the indebtedness of the rural and county school districts has to the Territory? It is stated here that the county school district indebtedness is \$2,874,000 and that the rural indebtedness is \$407,000. What relation have they to the Territory? Has the Territory in any way assumed the indebtedness?

Mr. PRINCE. No, sir; it has not. Those are local debts, school-district debts.

Senator FRAZIER. The same condition does not exist as it does in Arizona? Arizona has, under act of Congress, made the indebtedness of certain counties the indebtedness of the State, with the provision that the county shall ultimately repay the State.

Mr. PRINCE. No, sir; that is not the condition of things in New Mexico. There is no such assumption at all.

If that is not done, if it does not meet the approval of the committee, then I wish to draw your attention particularly to the case of Santa Fe County and these bonds to which the chairman has alluded. The railroad went down through New Mexico in 1880. Santa Fe is situated on the west of the mountain range, and the railroad without an enormous expense could not pass through it, and passed it by, running about 20 miles south. Santa Fe was the capital of the Territory and the head of the military district, the district which at that time included Arizona as well. Of course, it was the point which was to be reached by government officials as well as others, and for government purposes as well as private purposes. The railroad refused to build out to Santa Fe, saying it was too expensive for them to do it. The people of Santa Fe County voted \$150,000 of bonds to aid in the construction of that road. Some years afterwards a road was built down from Colorado, from Denver—the Denver and Rio Grande—to a distance about 30 miles from Santa Fe, and they, under an arrangement with the other railroads, stopped there.

In order that the capital might be connected with the northwestern part of the country, from which it was altogether cut off, and to enable it to have communication up to Colorado, by building a road through that 35 miles, the county bonded itself again for that purpose. These are the two sets of railroad bonds issued by Santa Fe County.

The CHAIRMAN. What time was that?

Mr. PRINCE. In 1880 or 1886.

The CHAIRMAN. That was after the act of 1878?

Mr. PRINCE. Yes, sir; precisely.

The CHAIRMAN. Which prohibited—

Mr. PRINCE (interrupting). Yes. In the Arizona case it was held that the act of 1878, usually known as the Harrison Act, after

the other distinguished gentleman from Indiana, who, on his upward course toward the Presidency, was the chairman of this committee at that time—that that act had made it absolutely impossible for a county to bond itself for a purpose of that nature. But in the Arizona act such bonds were declared to be absolutely invalid. The county thereby was relieved from the payment of those bonds. This was a decision of the Supreme Court of the United States. Then Congress intervened, and it was by an act of Congress that these bonds were revalidated and made an obligation of the county of Santa Fe—a burden upon it.

We suggest that as Congress put that burden upon the county of validating invalid bonds, it would be the proper thing for Congress to relieve the county from that at this time, not only a proper thing, but a very desirable thing, in view of the situation.

I think you all have before you copies of this paper which I hold in my hand, showing the debt of the county of Santa Fe, which, owing to these bonds, and the fact that they stopped paying interest on them after the time of that decision in Arizona, and have practically paid no interest since, that the bonded indebtedness of that county has become exceedingly large. Including those bonds, it is more than 50 per cent of the taxable valuation of the county. It is a burden which they can not bear. It is impossible for them to pay the interest on those bonds and they ask relief—not relief, of course, from any other indebtedness unless all of the counties have it all together—but relief from that particular indebtedness which has been imposed upon them by act of Congress and by act of Congress alone.

Senator FRAZIER. You refer to the act of 1896 validating the bonds in both of those Territories?

Mr. PRINCE. Yes, sir.

The CHAIRMAN. Do you know anything about the circumstances of the passage of that act?

Mr. PRINCE. No, sir; I do not.

Senator PILES. Did the people of the county request Congress to validate the bonds?

Mr. PRINCE. The people of the county?

Senator PILES. Yes.

Mr. PRINCE. Oh, no.

Senator PILES. They did not?

Mr. PRINCE. No, sir.

The CHAIRMAN. To clear things up, I want, so far as I am concerned, that you shall go on in your own way without interruption; but I want to ask you this: You said something at that point which interests me. You said the county could not pay the interest. As I understand this, the original indebtedness, the original bonds, were something about \$300,000; is that correct?

Mr. PRINCE. Yes, sir.

The CHAIRMAN. That has been some twenty years ago?

Mr. PRINCE. Yes, sir; it has been thirty years ago, in the case of the first one.

The CHAIRMAN. Now the indebtedness, consisting of that original \$300,000 bonds and accrued interest, amounts to \$1,320,182?

Mr. PRINCE. No.

The CHAIRMAN. What does it amount to now?

Mr. PRINCE. A little over \$800,000.

The CHAIRMAN. I understood in conversation with these gentlemen that the total indebtedness was about \$1,300,000.

Mr. PRINCE. That includes the other indebtedness of the counties.

The CHAIRMAN. It is immaterial to my question. Why could not the county from the start, since they did issue these bonds of their own free will, pay the interest on the bonds?

Mr. PRINCE. Well, they did pay it for a while.

The CHAIRMAN. Why did they not keep on paying it?

Mr. PRINCE. The Arizona case was started. It looked as if the decision would be that way. It seemed as though they were invalid under that act of 1878.

Senator FRAZIER. The court actually held them invalid?

Mr. PRINCE. Oh, yes, sir.

The CHAIRMAN. There is no question about that. So that in your particular case, which is to be distinguished from the Pima County case, although the people had had the railroad built, nevertheless, because they did not have to pay the interest until this bill was gotten through Congress they just simply did not pay the interest. Was it because they could not pay the interest which they had already paid up to that time or because they did not want to; is that correct?

Mr. PRINCE. I think scarcely. They refunded the interest at a lower rate some time after that. That included a large amount of interest and the amount which then became principal.

The CHAIRMAN. That was a lower rate of interest, even?

Mr. PRINCE. That was a lower rate.

The CHAIRMAN. And still they did not pay the lower rate?

Mr. PRINCE. That is very true. If you will look at the valuation of the county—and of course the valuation of the county is necessarily kept down from the fact that people will not come in there, people with capital, who desire to bring enterprises. They will not come in when a county is handicapped with that enormous debt. It is one of the misfortunes of the situation that there is a practical mortgage there on everything of from 55 to 60 per cent.

The CHAIRMAN. But it would not have been enormous if the people had gone on paying the interest.

Mr. PRINCE. That is entirely true.

Senator PILES. The bonds were voted by the people in aid of a railroad; is that the idea?

Mr. PRINCE. Yes, sir.

Senator PILES. And was a local company formed to build a branch line as a connection with the main lines, or were bonds given to the main-line road?

Mr. PRINCE. In the first case they were given to the main-line road. In the other case it was a separate road which made this connection of 35 miles. It was an Ohio company, composed of Ohio men.

Senator PILES. One branch, however, was to the old Atlantic and Pacific?

Mr. PRINCE. The Atchison, Topeka and Santa Fe; it was called the Atlantic and Pacific west of Albuquerque.

We are not asking any appropriation for this. We are simply asking the same kind of assistance which it seems to us is as good a use of public land as can be made in order to relieve the people.

It is to be remembered again—pardon my repeating. I am trying not to repeat anything. But it is to be remembered that Santa Fe

was the capital and head of the military district, and that governmental matters as well as private matters made it almost necessary it should have some connection with the main lines to the outside world, although the burden fell entirely upon the people living right there in that locality. On account of Congress having put this upon them by its own action, after they had been declared invalid, I feel that we have a special claim on the action of Congress in order to right that wrong, if it be a wrong, or to grant that grace if it be a matter of grace.

Senator KEAN. I understand there is another class of bonds, issued before the passage of the act.

Mr. PRINCE. We are not asking this unless all of the indebtedness is wiped out in the Territory. We are not asking anything except in regard to the railroad bonds which were validated by act of Congress.

Senator KEAN. I was referring to the fifty-seven thousand and odd dollars of bonds Mr. Cutting owns.

The CHAIRMAN. Those are court-house bonds, are they not?

Mr. PRINCE. Yes, sir. That is an entirely different matter.

The CHAIRMAN. The Harrison Act would permit those bonds.

Senator KEAN. But these were issued before the passage of that act.

Mr. PRINCE. We are not asking action on that unless the committee chooses to wipe out all the indebtedness.

The CHAIRMAN. Why have not those Cutting bonds, which are bonds to build a court-house, been paid? Why have not the people paid those bonds? What was the original amount of those bonds?

Mr. PRINCE. Forty thousand dollars. They have been refunded to 1891 and they are now \$57,000. They refused to pay any interest on them, even since the refund of 1891.

The CHAIRMAN. This is a different class of bonds and does not fall within the prohibition, as I understand it, of the Harrison Act, which makes the rest of these bonds illegal, and which the Supreme Court declared to be legal. As I understand the fact to be, and you can correct me if I am wrong, those particular bonds now held by Mr. Cutting were issued to build a court-house, and the court-house was actually built. The bonds amounted to \$40,000. Now, why did the people refuse to pay those bonds, the interest on them? You stated that the people refused to pay, or discontinued payment of interest on the railroad bonds because they were declared invalid; but these were not. Why were they not paid?

Mr. PRINCE. I am unable to answer that. Possibly some of the other gentlemen here can. We are not asking any action, as I said, with regard to this. They ought to be paid, the interest ought to be paid on them.

The CHAIRMAN. How long ago was the court-house built, for which these bonds were issued?

Mr. PRINCE. About 1884 or 1886.

The CHAIRMAN. So it is practically twenty-five years ago?

Mr. PRINCE. It seems to me.

The CHAIRMAN. And you do not know why those bonds, which were admittedly valid, have never been paid, neither the bonds nor the interest?

Mr. PRINCE. I think it can be explained better by some of the other gentlemen.

Senator KEAN. I think they refunded them afterwards, and then refused to pay the interest on the refunded bonds.

The CHAIRMAN. Why did they refuse to pay the interest on the refunded bonds which were admittedly legal?

Mr. PRINCE. That I do not know. They certainly should have been paid.

I do not know that I have anything to add, except in a general way to say that if we are to be a State we hope for a prosperous career, and that we can be helped by the action of Congress in appropriating certain public lands in this way. As to the last class, we think we have a special claim on Congress, because Congress put that obligation upon the county.

Senator FRAZIER. In the House bill I see they provide that—

The debts and liabilities of said Territory of New Mexico which shall be valid and subsisting at the time of the passage of this act shall be assumed and paid by said State, and that said State shall, as to all such debts and liabilities, be subrogated to all the rights, including rights of indemnity and reimbursement, existing in favor of that Territory at the time of the passage of this act.

Is that the provision you want inserted here in the other bill?

Mr. PRINCE. Yes, sir.

STATEMENT OF CHARLES A. SPIESS.

Mr. SPIESS. Mr. Chairman and gentlemen, I appear here and ask probably the very same kind of aid that the gentleman who has just closed asks for, except I ask it for an entirely different reason and for a different purpose.

I now represent, and since the year 1901 have represented, the holders and owners of these Santa Fe Railroad aid bonds, as an attorney employed by them for the purpose of trying to compel the payment of those bonds. The county of Santa Fe has never paid any of this bonded indebtedness, whether it arose from the railroad-aid bonds, or from any other source, since the time that I was employed by the holders of these bonds to compel payment of them. The court-house bonds that were issued, the \$40,000 issue, the county refused to pay that indebtedness. The taxing officers have continually and constantly refused to carry out assessments and make levies to pay this interest unless compelled to do so by mandamus proceedings. That has been the situation since the time I have been connected with these bonds, and also before that.

The CHAIRMAN. Why did they refuse to pay the court-house bonds?

Mr. SPIESS. The case is this: A western community, or any other community, is just like an individual. When they get so head over heels and overwhelmingly in debt, they just simply get desperate and say they won't pay any of it, and that is the only reason they have not done it—they are so absolutely in debt in that county.

The CHAIRMAN. They got themselves in debt?

Mr. SPIESS. Yes, sir.

The CHAIRMAN. And now refuse to pay any part of that indebtedness. As to this \$40,000 of bonds which were issued before any of the others; that \$40,000 was not an overwhelming indebtedness, and they were relieved from the other by the decision of the Supreme Court. Why did they not pay the admittedly valid bonds?

Mr. SPIESS. For this reason. In the first place I can not say anything about before 1891, but since 1891 I can state why they did not do it. In 1891 the legislature passed an act authorizing and requiring the county commissioners of every county in New Mexico to fund its overdue indebtedness. When the act was passed this indebtedness was refunded in 1891, and while the indebtedness is the same, the railroad indebtedness and the court-house indebtedness, it has changed its form of indebtedness in many respects. When they make a levy in Santa Fe County they would make a levy for the payment of interest on the bonded indebtedness just in that form. They would make one levy, and that levy, when they did make it, was a levy made for the payment of all kinds of indebtedness.

The CHAIRMAN. That levy could not have included the railroad-bond indebtedness which had been declared invalid and was invalid until the act of Congress, into which the committee will inquire later. So that levy could not possibly have included that large indebtedness.

Mr. SPIESS. No; I think not.

The CHAIRMAN. That being true, the levy which the people refused to recognize, and the taxing officers refused to make, was for an indebtedness which was not very great and which was admittedly legal; is not that true?

Mr. SPIESS. Absolutely.

The CHAIRMAN. That being the case, it would not seem to be accurate that they declined to do it because all were included in one levy, because that was not the case.

Mr. SPIESS. I agree with you. I do not know anything about the time away back, but I know since 1891 they made one such levy. I obtained a mandamus and the court ordered them to make a levy of 82 mills to pay for this indebtedness, and I have never been able to get it on the books up to this time. I prosecuted the case to the Supreme Court of the United States, argued here two months ago, upholding the validity of the New Mexican judgment.

The CHAIRMAN. For my own information let me ask this: When the authorities directed the levy of 82 mills, was that on all of this indebtedness?

Mr. SPIESS. Yes, sir.

The CHAIRMAN. Then the taxing officer, you say, refused to make that levy?

Mr. SPIESS. Yes, sir.

The CHAIRMAN. What part of the levy did they make? Did they exercise their own independent judgment as to how much to levy and how much not to levy?

Mr. SPIESS. They have heretofore.

The CHAIRMAN. They must have had some method by which they divided the 82 mills for the payment of all of the indebtedness into such part as the taxing officers felt they would or would not levy; how did they arrive on that?

Mr. SPIESS. I do not think they arrived on any basis at all; they just fixed a small levy.

The CHAIRMAN. Who fixed it?

Mr. SPIESS. The county commission. The first man to get there would get his money. We were never the first ones to get there, because we were in New York. That is the shape we are in. We are confronted with that condition. We can not get our money, and we

have absolutely exhausted every known remedy and are unable to get it.

Senator FRAZIER. You want the Government to come to your relief?

Mr. SPIESS. Yes, sir; to provide for paying this indebtedness.

Senator PILES. On what theory do you think the Government ought to pay it?

Mr. SPIESS. On this account: I think it ought to do it absolutely as a matter of grace, to assist a struggling people in that community who can not pay their debts. I base it on the same ground that Governor Prince has outlined to you. Here is an indebtedness created by a little handful of western people in Santa Fe County, assuming this debt for the purpose of building a railroad in New Mexico, undertaking something which the Government of the United States had extended to at least five large branch railroads built to the Pacific Ocean.

The CHAIRMAN. Is it not true—I have heard so—that the railroads of Kansas were largely built by just exactly this kind of work by people in moments of enthusiasm or otherwise, and that it exceeded vastly, incomparably, and almost inestimably, the comparatively small debt created here? Is it true or not that the Government was never asked to come to the relief of the people of Kansas to pay the debts they had created, and did they not pay them themselves?

Mr. SPIESS. I am wholly without any knowledge on that subject.

I will say this: The Southern Pacific, the Atlantic and Pacific, the Union Pacific, and a number of other railroads that I could name were granted large subsidies in the form of land grants by Congress for the purpose of building these western railroads.

The CHAIRMAN. Do you think the Santa Fe, passing through your State, has been in the good old days greatly neglected by this Government and by your own Territory in the form of privileges and grants that have been made to it?

Mr. SPIESS. I do not think the Santa Fe ever got a land grant.

The CHAIRMAN. The taxation figures we went into a short time ago were certainly more or less liberal.

Mr. SPIESS. You mean the form of donation?

The CHAIRMAN. Yes.

Mr. SPIESS. I think it is relatively so. The people of New Mexico only assess their property about one-third of its worth.

Senator FRAZIER. Is another reason why you think the United States ought to pay the indebtedness created for the aid to this railroad by this county on the ground that the Federal Government validated the bonds, validated what were invalid bonds?

Mr. SPIESS. Yes, sir.

Senator FRAZIER. So far as those bonds are concerned, you place it on that basis?

Mr. SPIESS. Yes, sir.

Senator FRAZIER. So far as the county bonds are concerned, created for the building of the court-house and other internal improvements in the county, you put it upon the ground that they were a struggling people and had to have these things, and went a little too deeply into debt?

Mr. SPIESS. Yes, sir.

The CHAIRMAN. And now, as a matter of grace, you think that would justify the Government in being liberal with them?

Mr. SPIESS. Yes, sir; and I do it on this ground—

The CHAIRMAN. Would you say that \$40,000 of court-house bonds were a pretty heavy indebtedness for Santa Fe County?

Mr. SPIESS. Not if it had been alone. But these people were head over heels in debt at that time. If they had not been they would have taken care of that indebtedness.

The CHAIRMAN. But the Supreme Court relieved them of that?

Mr. SPIESS. But they did not get relief because Congress immediately validated those bonds. They may have had relief for about a year or two.

Now, those bonds, the ones that I represent as attorney, are held by absolutely innocent purchasers for the value of those bonds.

Senator FRAZIER. Railroad or court-house bonds?

Mr. SPIESS. Railroad-aid bonds.

The CHAIRMAN. Upon that point I am compelled to ask you this question, whether or not the bondholders did not take those original bonds with notice of the laws then existing which their very issuance violated?

Mr. SPIESS. They did, if you please—

The CHAIRMAN. But is it not the case that a purchaser of bonds takes his bonds with knowledge of existing laws respecting their issue?

Mr. SPIESS. Absolutely; but there is a difference of opinion in the construction of that act, whether internal affairs meant building railroads.

The CHAIRMAN. But the Supreme Court says on that very point the question is too clear for argument.

Mr. SPIESS. It became too clear after the Supreme Court decided it, but before that time good attorneys differed as to what the proper construction of that was. No less a person than Gen. Lew Wallace, governor of New Mexico in 1879, certified to the bondholders of the East, when governor of New Mexico, that that issue of railroad bonds was absolutely valid, and upon such recommendations as that the eastern people bought those bonds.

Mr. LAUGHLIN. He certified the railroad had been constructed as the law directed.

The CHAIRMAN. He did not certify a legal opinion? I knew General Wallace pretty well, and I would be astonished if he certified a legal opinion.

Mr. LAUGHLIN. He did not certify to anything of that kind. The law required the governor before issuing the bonds to certify the road had been constructed as provided in the elections.

The CHAIRMAN. In other words, he certified as to facts and did not give an opinion?

Mr. LAUGHLIN. That is all.

Mr. SPIESS. It was my opinion he certified to the validity of the bonds. The people of Santa Fe County very generally thought he did do that. I have a letter addressed to Mr. George Hudder, who sold these bonds to the eastern bondholders. This is a copy of it I now hold in my hand, signed generally by all the people of Santa Fe County.

New Mexico and Southern Pacific bonds were bought by W. N. Coler, the father of Mr. Byrd S. Coler, present here with us to-day. He paid 77 cents to New Mexico and the Southern Pacific for those bonds. Those bonds were sold by the bonding house of W. N. Coler to eastern purchasers for all the way from 90 to 101.

I have a list of the persons who purchased those:

Estate of C. E. Spaulding, New London, Conn.....	\$2,000
Estate of Henry Chapel, New London, Conn.....	1,000
W. N. Coler & Co., New York City.....	5,000
Estate of John D. Dallup, North Stonington, Conn.....	1,000
Chas. B. Hole, trustee, Montclair, N. J.....	44,000
Estate of James Bolton, Somerville, N. H.....	42,000
North American L. and T. Company, Huron, S. Dak.....	9,000
Mrs. Lydia W. Noyes, Mystic, Conn.....	1,000
Estate of Wm. G. Weld, Boston, Mass.....	49,000

The CHAIRMAN. Who is that?

Mr. SPIESS. The estate of W. G. Weld.

I have a list of them here and I would like to put them all in the record.

The CHAIRMAN. Very well, you may do so.

Mr. SPIESS (reads):

Wm. Miner Becker, Central Bridge, N. Y.....	\$2,000
Estate of John Green, Brooklyn, N. Y.....	1,000
Investment Guaranty Trust Company, Hull, England.....	2,000
J. E. Graham, Vischer Ferry, N. Y.....	2,000
Street, Wykes & Co.....	11,000
Municipal Trust, London, England.....	28,000
Elizabeth Markham, Bridgeport, Conn.....	6,000
Elijah Coffin.....	1,000
George Henry Pope, New York.....	2,000
L. T. Hoyt estate, Mystic, Conn.....	3,000
W. G. Pine-Coffin, London, England.....	9,000
E. P. Skinner.....	38,000
E. P. V. Hoes, Phoenix, Ariz.....	2,000
E. R. Hought.....	1,000
Eleanor Ida Stewart, Ozone Park, N. Y.....	1,000
Samuel Edwards, Hudson, N. Y.....	1,000

The Moore & Schley bonds were delivered over to the builders of that railroad, and Moore & Schley now represent the holders of those bonds. They are:

The Southern Trust Company.....	\$40,000
Moore & Schley (1896 liquidation).....	30,000
W. K. Kitchen.....	15,000
Estate of Samuel Thomas.....	15,000
G. B. Schley.....	13,000
J. W. Simpson and Thos. Thatcher, executors estate of J. G. Moore.....	13,000
A. T. French.....	12,000
L. W. Minforne.....	6,000
A. H. Calef.....	6,000
F. L. Russ.....	1,200
Estate Samuel Shethar.....	6,000
Chaterine Van Ness.....	6,000
Estate W. H. Guff.....	3,000
Esther R. Holmes.....	4,000
E. F. Morris, trustee.....	2,000

When this letter was sent me by Messrs. Moore & Schley they admonished me in the following language:

With the usual reluctance as to revealing principals, we request that this information be regarded as absolutely confidential by you, except for such use of it as may seem to you necessary before the committee.

I feel that it is necessary for me to leave this letter with the committee, although the names are in this list which I have read, and which I will leave with the committee.

The CHAIRMAN. Very well; you may keep the letter then.

Mr. SPIESS. Now, in 1906, this whole question of the validity of these railroad bonds came before a Senate committee of which Mr. Cushman K. Davis, I believe, was chairman, and a full report of the proceedings of that committee and the conclusions and findings of that committee are found in what is called "Calendar No. 331, Senate Reports, No. 288, Fifty-fourth Congress, first session." I will be very glad to leave this report with the committee.

What I am primarily interested in in representing these bondholders is that a way be provided by Congress whereby these bondholders may collect their indebtedness. I know of no better way than simply inserting at page 5 of this bill these words, which I have written in in a copy that I have, these words to follow the words "New Mexico" in the sixth line of that page—"and the debts of the counties thereof;" so that the section will read: "Third. That the debts and liabilities of said Territory of New Mexico and the debts of the counties thereof, which shall be valid and subsisting at the time of the passing of this act, shall be assumed and paid by the proposed State."

That will make a provision whereby the credit of every county in New Mexico will be maintained, because the taxing officers of New Mexico, looking at this matter from the standpoint of state officials—

The CHAIRMAN. Permit me to interrupt you just a minute. That is a very practical suggestion. Would you be satisfied, Mr. Spiess, if that provision were put in there regardless of the appropriation of 3,000,000 acres of land?

Mr. SPIESS. I would rather have it this way.

The CHAIRMAN. And leave out the appropriation of 3,000,000 acres of land?

Mr. SPIESS. I would rather get it, but if we do not get it, then this. I think the people of New Mexico would be satisfied.

Senator FRAZIER. Who is looking after the State of New Mexico in this controversy?

Mr. SPIESS. All these gentlemen here.

Senator FRAZIER. You seem to be looking after the bondholders and the Senator is looking after the Government of the United States. Under your proposition the State of New Mexico would assume this debt?

Mr. SPIESS. That is what is done in Arizona.

The CHAIRMAN. No.

Senator FRAZIER. I want to be the next friend to New Mexico.

Mr. SPIESS. I think that proposition would be all right.

The CHAIRMAN. Your amendment is worth considering.

Mr. SPIESS. Now, on line 11 of the same page, I suggest the addition of these words, just preceding the "provided," near the end of that line: "or of any of the several counties thereof." That is supererogating the right of defense which the Territory would have.

The CHAIRMAN. It merely makes it conform to the other suggestion you made?

Mr. SPIESS. Yes, sir.

The CHAIRMAN. We understand that.

Mr. SPIESS. If this bill is passed in its present form with these amendments, I want to disclose to you gentlemen what I think ought to be done. Then we ought to have this 3,000,000-acre land grant with which to pay the indebtedness of the State.

The CHAIRMAN. Of the whole thing?

Mr. SPIESS. Yes, sir, and I will state why. The United States does not get a cent of money from that land, no matter how it administers it. There is not 5 cents interest to the United States, whether they give us these 3,000,000 acres or not. If these 3,000,000 acres of land are given to New Mexico to assist her to promote the happiness and prosperity of her people, then I would be satisfied, and I think every gentleman here from New Mexico would be satisfied to have this committee put some restriction regarding the sale of that 3,000,000 acres of land, which would postpone the sale ten or fifteen years.

The CHAIRMAN. At that point, let me ask you this question: In the bill introduced in the Senate, known as the Senate bill, very careful restrictions have been thrown around the disposition of this land. I understood you to say to me in private conversation that you were entirely satisfied that the restriction could not be made too strong.

Mr. SPIESS. Absolutely, Senator, and more than that. We would have adopted those same restrictions by our constitutional convention—

The CHAIRMAN (interposing). So you have no objection to these restrictions?

Mr. SPIESS. No, sir. In reference to leases, I think they ought to be cut out entirely, because 640 acres of land will only bring about \$12.

The CHAIRMAN. That matter the committee will take up later. May I ask you what you have to say about the militia warrants? Can you give the committee your views concerning those?

Mr. SPIESS. Yes, sir. The author of this bill has a provision in it with reference to the indebtedness, which is a very wise one, and I hope it will be carried forward:

"Provided, That nothing in this act shall be construed as validating or in any manner legalizing any territorial, county, municipal, or other bonds, obligations, or evidences of indebtedness of said Territory or the counties or municipalities thereof which now are or may be invalid or illegal at the time said proposed State is admitted."

The CHAIRMAN. "Nor shall the legislature of said proposed State pass any law in any manner validating or legalizing the same."

Mr. SPIESS. Yes, sir; and I hope that provision will be carried forward in any bill which is passed, especially any bill which gives us a land grant, for this reason: There is now an indebtedness in New Mexico called militia warrants. A portion of the militia warrants are valid and a large, and a much larger, portion is invalid. There is no way in the world of segregating what is good from what is bad, because we all feel there have been forgeries committed in a good portion of these militia warrants.

Senator FRAZIER. Issued by counties or by the Territory?

Mr. SPIESS. By the Territory. The holders of these militia warrants have come before every legislature, certainly every one I have been in, and I have been in about eight times, with the view of having us validate these militia warrants. We have absolutely put our foot

down upon it every time, and there has never been a single vote recorded in favor of it.

Senator FRAZIER. And you approve this provision?

Mr. SPIESS. Yes, sir. If you gentlemen, out of the goodness of your heart, will come to our aid in New Mexico by giving us this grant which the United States can not get a 5-cent piece out of no matter how it handles the property——

Senator FRAZIER (interposing). How could you get anything out of it?

Mr. SPIESS. When the United States administers the public-land laws of New Mexico, people go upon them for nothing, and the United States does not get anything for it.

The CHAIRMAN. Yet the Territory does if the people go on the land?

Mr. SPIESS. Yes, sir; the Territory can sell these lands and get itself entirely out of debt. That is the difference. The United States does not get a cent.

The CHAIRMAN. The United States and the Territory, too, in the larger view, get a great deal from it, when citizens go on this land of the United States, occupying it and becoming citizens of your Territory?

Mr. SPIESS. Yes, sir; and we do the same thing. If you are going to marry us into the Union give us such a trousseau that we can come in in good shape. You are the parent of New Mexico.

The CHAIRMAN. But none of our statehood daughters have been provided with any such trousseau as this.

Mr. SPIESS. It was my extreme pleasure to advocate the passage of the New Mexico-Arizona bill all over New Mexico. In fact, I was one of three men selected by the Republican central committee of New Mexico to draft a state party platform of reasons why we should adopt that bill, the joint statehood bill, and I will say that in New Mexico we responded to the wishes of the majority of this committee, and we carried that proposition by more than 12,000 votes, and that bill gave us \$5,000,000 in money and gave us 6,000,000 acres of land. Now, treat us about half as well as that. The bill which admitted Oklahoma into the Union gave Oklahoma \$5,000,000 straight in cash.

The CHAIRMAN. The reason for that was merely this: The Territory of Oklahoma had already a very large school-land appropriation. There were no lands in the Indian Territory belonging to the United States with which we could endow them, and so after a great deal of discussion here in this committee we simply cut the Gordian knot by enabling the Indian Territory to come up with her share, and not being able to appropriate anything in the way of lands we appropriated \$5,000,000.

Mr. SPIESS. You gave Oklahoma land.

Senator KEAN. She had public land to give to the Indian Territory.

Mr. SPIESS. Oklahoma did not own those lands; the United States gave them to the State.

Senator KEAN. We were very liberal.

Mr. SPIESS. I think the whole matter resolves itself into letting us in in the nicest way you can. Make us feel a gratitude for what this committee has done for us, as long as New Mexico will endure. Let us come in here just like every other State has come in recently, with a public-land grant, and pay off part of our debt and come in on a cash basis hereafter.

The CHAIRMAN. Speaking about gratitude, would you say when the people were not grateful enough to pay interest on \$40,000 for building a court-house that their sense of gratitude would last very long if we would do this?

Mr. SPIESS. I know it would. They simply do not pay that now because they are so absolutely in debt they are desperate. You can not blame those poor fellows. They have a mortgage on 60 per cent of everything they own in Santa Fe County. They have an indebtedness of over \$1,600,000, while they are assessed only about \$2,400,000.

Senator DILLINGHAM. I understand they appraise their property at about one-third of its value.

Mr. SPIESS. All over the United States they appraise it at about one-third. They do the same thing in the State of Missouri. In Cleveland, Ohio, I had it illustrated to me, where they put it at about one-fifth.

The CHAIRMAN. Is it not true that in not a single case in the history of the country has any appropriation of land been made for the payment of debts of a Territory and its municipalities upon its assuming statehood?

Mr. SPIESS. Well, the aid may not have taken that particular form. That may be so, but they have gotten land-grant aid in Wyoming.

The CHAIRMAN. Not for the payment of its debts.

Mr. SPIESS. Maybe not, but it was for some other purpose. In this case, representing the bondholders as I do, I hope that the committee will find some way whereby those bondholders can get their money. Aside entirely from the view of assisting that poor, struggling community, I hope the Senate committee can do something for the bondholders in this respect.

Senator FILES. What has the House done?

Mr. SPIESS. The House has provided just such an amendment as I suggested, and then gave us that land grant.

I think there is a reason for helping out Santa Fe County on the railroad bonds, and a very excellent reason. It has been suggested by Governor Prince to every member of this committee, and by myself once. Here is this little handful of people, which at that time represented the business and intellectual centers of New Mexico, being its capital, attempting to do for itself and the rest of New Mexico what Congress had enabled other communities to do by making land-grant acts, giving them frequently to the railroads. Here Santa Fe County attempted itself to do that, and in other cases Congress aided those communities by directly providing this aid to the railroads themselves. The building of these two railroads has been of direct benefit to all the rest of New Mexico, and that is one of the reasons why I think the rest of the Territory of New Mexico can share in paying that railroad indebtedness. Santa Fe is isolated at an elevation of about 7,000 feet, right at the foot of the main range of the Rocky Mountains, at a place where none of the traffic lines go without making a very wide detour from the direct line to their objective points. The result was Santa Fe was left 20 miles from one railroad and about 38 miles from the other railroad. That was the result. The people of Santa Fe County voted this railroad aid and built this line of 20 miles connecting up the capital of New Mexico with the Atchison, Topeka and Santa Fe Railroad,

and then voted this other aid of \$150,000 to build 38 miles of narrow-gauge railroad to connect with the Denver and Río Grande at Espanola. Those two lines connected Santa Fe with the world. That was in the period when the Apache was on the rampage in New Mexico and ravaged houses and families all over the southwestern and northwestern part of New Mexico.

The CHAIRMAN. That is an excellent argument in support of your proposed amendment on page 5, but it is not a good argument for the three million appropriation. It is a good argument why the Territory itself has benefited as much as Santa Fe.

Mr. SPIESS. I am directing it to that very thing. Santa Fe has been the capital of New Mexico under three governments, the Government of Spain, of Mexico, and of the United States. It has been the capital of New Mexico for more than two centuries, and I trust God that it will always remain the capital of New Mexico. The legislature met there every two years. Members could not get to it without driving in vehicles from these different railroad points. The principal military post of the United States in the southwest was located at the seat of Santa Fe; troops were moved from Santa Fe to all portions of New Mexico, the northern, northwestern, and southwestern parts, by means of these two little railroads having been built to connect with the other parts of the railroads.

These are some of the considerations that I think authorized this committee in directing the entire State to assume at least this indebtedness.

Senator PILES. Your proposition is to have the State assume this railroad indebtedness?

Mr. SPIESS. Yes, sir.

Senator PILES. And they in turn to have the Government provide certain lands?

Mr. SPIESS. That is what I ask, what I would like.

Senator PILES. In order to indemnify the State for the assumption?

Mr. SPIESS. Yes, sir. If the gentlemen of the committee desire only to take care of this railroad-aid bond indebtedness, and I think it appeals to everybody that something ought to be done in that respect, these bondholders ought not to be permitted to wait thirty years and never get it. It may be some of them have money and can afford to hold it. But that is not a good argument, because a man has money to go in and take it away from him and never pay him. They have been owed this for thirty years, and something ought to be done for their relief, as well as the relief of that struggling county.

The CHAIRMAN. I suggest to Senator Piles there are two propositions Mr. Spiess is advancing. The one to which he has been addressing the latter part of his argument is the amendment which he suggests on page 5, line 6, after the words, "New Mexico," to include, "or debts of the counties thereof," so that the State shall assume the debt of the counties, which I understand Arizona has already done.

Mr. SPIESS. Yes, sir.

Senator FRAZIER. That was done by act of Congress?

Mr. SPIESS. Yes, sir; Congress directed it to be done.

The CHAIRMAN. That is one proposition. The other, which is entirely separate, is that 3,000,000 acres of land shall be appropriated by Congress so that instead of the Territory, the United States shall pay the whole thing.

Senator PILES. I understand that; the State to assume the debt, and the Government to indemnify the State by land grants.

Mr. SPIESS. If the gentlemen of this committee do not think the State should be compelled to assume the indebtedness of all the counties, they can rightfully and equitably direct the State to assume the railroad-aid indebtedness, at least. Then, if the gentlemen think it would cast a hardship upon some other part of the State, reduce this 3,000,000-acre land grant which we have and make it 400,000 acres to pay that. That is a very small thing.

Senator PILES. Why distinguish the debt from any other county debt?

The CHAIRMAN. Some are valid and some invalid.

Mr. SPIESS. The other county debts were put in absolutely for internal affairs. I take it the building of these two railroads was a thing to the benefit of the entire Territory of New Mexico, because it connected up—

Senator PILES. It facilitated transportation throughout the Territory?

Mr. SPIESS. Yes, sir. It connected the entire Territory with the capital of the Territory, which at that time was the headquarters of everything there was in New Mexico and was the seat of the principal military post of New Mexico.

The CHAIRMAN. If you have concluded upon this point I will ask you about one or two other questions which are not at all connected with this. I have a letter, in fact two or three, which I intend to lay before the committee before this matter is concluded, with reference to the formation of a new county. Since the election of the last delegate, Curry County has been formed out of portions of Roosevelt County and Quay County. In it, it is said, there are all the way from any number of voters up to 2,000. Of course, neither the House nor the Senate knowing anything about this new county, the bills of both Houses do not provide representation from them at any constitutional convention. Have you any suggestion to make about that? I suppose we can cure that very easily. I would be glad to have you inform the committee on that.

Mr. SPIESS. I think the way to do that would be to direct the governor and the committee that is going to apportion the delegates among the counties of New Mexico to include that and to apportion to Curry County such number as it would be entitled to.

Senator FRAZIER. Has Curry County already been organized?

The CHAIRMAN. Yes. The point is that at the time of the last legislature it did not exist. We provide here that the apportionment shall be according to counties then existing. One more word. We provide here that the—you have read this bill carefully?

Mr. SPIESS. Yes, sir.

The CHAIRMAN. We provide here that the election for the ratification of the constitution shall be separated from the election for state and all other officers by a period intervening, as stated in the bill.

Mr. SPIESS. Yes, sir.

The CHAIRMAN. I understand that meets your approval?

Mr. SPIESS. Absolutely, and I go a little further than that. There is another election I would like to cut out.

Senator HUGHES. That is a political matter in which you take position owing to your political affiliation?

The CHAIRMAN. No; because I think there is a Democrat who is going to appear before the committee and who approves of this.

Mr. SPIESS. Now, there is this matter to which I desire to call the attention of the committee. On page 11, line 4, of the Senate bill I desire to suggest an amendment. It reads in that section as follows:

Until the issuance of said proclamation by the President of the United States the county and territorial officers of said Territory, including the Delegate in Congress thereof, elected at the general election in 1910, shall continue to discharge the duties of their respective offices in and for said Territory.

We will be voting on all these state matters in November, 1910, and we do not want to have another election in 1910. I suggest to strike out "ten" and insert "eight" in place of it—1908.

The CHAIRMAN. We will examine that further, but I can see the purpose. Of course the purpose of this whole provision is that the Territory shall not in the meantime be left without any officers at all?

Mr. SPIESS. Yes, sir.

The CHAIRMAN. That is good sense.

Senator PILES. You want the 1908 officers to hold over until the regular election?

Mr. SPIESS. Yes, sir; and not have any other legislature.

The CHAIRMAN. Is there any other point, Mr. Spiess?

Mr. SPIESS. I think that is probably the only point. I have added this:

Provided, That there shall not be a session of the legislative assembly held for the year nineteen hundred and eleven.

I know the gentlemen will agree to that. All those persons who think the legislature ought to be held but once in twenty-five years will agree to that in New Mexico.

Senator FRAZIER. Why do you suggest that?

Mr. SPIESS. I do not think there is any necessity for holding another legislature while statehood issues are pending.

Senator FRAZIER. I understood you to say that under this bill you expect to vote on the election of officers in the fall of 1910?

Mr. SPIESS. No, sir.

Senator BURNHAM. They adopt the constitution in the fall of 1910. They had a general election in November of this last year. Therefore they do not want it to be necessary that they should vote for the officers in 1910.

Senator FRAZIER. You do not want another territorial election?

Mr. SPIESS. Yes, sir; that is it exactly.

Senator BURNHAM. Do I understand the county indebtedness of New Mexico is in default?

Mr. SPIESS. No, sir; the only county in New Mexico that is in default is Santa Fe. All the other counties are in good shape.

Senator PILES. How much do the bonds and interest thereon amount to?

Mr. SPIESS. Between eight and nine hundred thousand dollars.

Senator PILES. And the interest has not been paid for how many years?

Mr. SPIESS. A large majority of it has not been paid for thirty years.

Senator PILES. What interest have the bonds been drawing?

Mr. SPIESS. The original bonds drew 7 per cent. Then it was refunded into 5.

I want to thank you for listening to me, and I want to say that I have no word of censure for any gentleman in the United States Senate in reference to what has been done for New Mexico. I never keep any political books, but in looking into the future I want to be able to see the prospect of New Mexico being a prosperous, happy, and successful State.

STATEMENT OF BIRD S. COLER.

Mr. COLER. I do not believe it is necessary for me to take up your time but for a moment. We can produce the bills of sale and everything in regard to the bonds to show the value. My esteemed friend on the left, who represents a local paper in Brooklyn, thinks when I come to Washington I come to unload on the Government of the United States some bonds that I never paid anything for. That is a little local and personal matter. [Laughter.] I hate all the time to be held up in that way. The history of the bonds I can add very little to. There may be a little something you would wish to know about.

From 1880 to 1885 there was a large railroad construction all throughout the United States, and in the State of Kansas particularly. Many railroad aid bonds were issued, of which we purchased practically all from the Rock Island, the Missouri Pacific, and from others. We had practically no trouble in those States. There were one or two small cases of litigation which were finally won out and settled.

The CHAIRMAN. The Kansas people paid their bonds?

Mr. COLER. Oh, yes, sir. They sold high, and still sell high, those bonds that are out. These were acquired in the general course of the line of dealing, and we paid 77 cents for them and sold them. As to looking into the legality of them at that time, we always supposed, and I do yet, that maybe my father was as good a lawyer on the municipal bond line as anyone. Anyhow, take the instance of the Weld estate. They never purchased a bond of any kind from us or from anybody else which they did not have their own lawyers look into, especially a bond of that type. We did try to look into these bonds. They paid interest for a year or so and then defaulted. Then they were refunded, and on behalf of the holders we scaled the bonds down. They paid a few dollars; I do not think the full amount of any one interest.

Then we came to Congress, and I was one of the small members that camped around the hall here in the early days, when a young man, trying to get the validating act through. We had Mr. Moody, who is now on the Supreme Bench, Mr. Speaker Reed, and a number of representative men. They looked into everything we had. We had quite strong opposition. I remember, for instance, that the governor of New Mexico came here and opposed the validating act, and we produced a letter which he had written requesting us to buy the bonds and saying they were good. We produced this before a hearing before the Senate committee. That was Governor Thornton. Those things had some effect on the committee. It was a hard fight. All the opposition that could be brought up was brought up. The

committee thrashed it out time and time again, and finally they validated the bonds.

It went back to the Supreme Court of the United States and we are now there. We would like to get our money and to get it the shortest way we can. That is just the position of our holders. They are not stolen bonds, or anything of the kind, notwithstanding the Brooklyn Eagle may desire to have anybody think so.

The CHAIRMAN. You say you have looked into this thing. The language of the act itself forbids the organization of any such corporation as a municipal corporation to incur or levy any debts except such as would be necessary for the development of internal affairs. That is the language of the law, reading from the last Harrison Act.

When the Supreme Court comes to examine that with reference to the issuance of these bonds it does not argue it briefly, but says it is a question too clear for extended argument. So if it was so clear, and there is the language of the act itself, it would seem that bondholders took more or less of a risk if they took the law into consideration at all.

Mr. COLER. I think sometimes even the best lawyers differ with the Supreme Court of the United States.

The CHAIRMAN. I do not think right here that there is very much difference. About the law that was gotten through here validating these bonds: I believe this involved not only Santa Fe bonds, but Pima County, Ariz., bonds, much worse than these, in that the railroad was never built. Is it not true that Arizona, notwithstanding that, has assumed that obligation, whereas New Mexico has not, which is what you and Mr. Prince ask for, aside from the 3,000,000-acre appropriation? You spoke about how the bill was gotten through. I think you had some aid, did you not, from the then Delegate?

Mr. COLER. How is that, gentlemen?

Mr. MURPHY. Yes, sir; he was for it, and Senator Perkins, of California, was with us. Senator Perkins was the most active.

Mr. COLER. Mr. Smith, the former and subsequent Delegate, very urgently opposed it. Well, he had his say, and he had it printed regularly in the Brooklyn Eagle. However, that particular case is closed. The bonds have been issued and the creditors have been paid; but they were to get so many bonds as so much of the road was completed. Fifty miles were completed. I think we have in our office the picture of Mr. Mark Smith sitting on a railroad train when it was opened up. [Laughter.]

Senator FRAZIER. You are referring to Pima County bonds?

Mr. COLER. Yes, sir. It was completed and the bonds earned the 50 miles required to get them. Then the decision came out about the Harrison Act, which stopped any further issuance of railroad-aid bonds in the country. It broke the railroads, because they had based their financing upon it. No further bonds were issued. We were not interested in building the line. We have never sold a steam railroad in our business. But the road was built. The Supreme Court decision did not say the law had been complied with, so, perhaps, the objection in that case is not just exactly as it was presented by the press, anyhow.

Senator FRAZIER. Do you represent or hold any of those bonds?

Mr. COLER. Not now. We did represent them. We handled all the railroad-aid bonds in the United States, practically, at that time.

Senator PILES. You are bond brokers?

Mr. COLER. Yes, sir.

Senator PILES. And bought those bonds and sold them on the market?

Mr. COLER. They were not bonds you could sell on the market, but bonds you had to sell and recommend.

Senator FRAZIER. In the Santa Fe County case you claim that the railroad was actually built.

Mr. COLER. It is running now.

Senator PILES. So that county got the benefit of the investment?

Mr. COLER. Oh, yes, sir; it is running now.

Senator PILES. In both instances?

Mr. COLER. Yes, sir. I have our bill book here, showing what the bonds sold for.

Senator FRAZIER. The only thing you want is somebody that will get behind those bonds and pay them. In other words, you wish to get a better paymaster than Santa Fe County?

Mr. COLER. We would like to have it. Then, too, it would establish credit. It is bad to have those kind of bonds lying around here and in Europe, and some of those bonds are held in Europe. It is not a good thing. It takes them a good while to get over that credit and to go ahead and finance anything more.

As to the question of guarantee, let me read you this from this book:

William G. Weld, Boston, Mass., 50,000 Santa Fe, New Mexico, ex January coupons dated December 4, 1885, 90 and interest, \$45,000. We guarantee payment of interest on the above bonds for a period of five years from this date.

We did do that in some cases, and they have the bonds yet.

Senator PILES. Did you buy bonds outright, or simply were they put in your hands for sale?

Mr. COLER. We bought them outright from the Atchison, Topeka and Santa Fe, and paid 77 cents. After completion they had the governor's certification as to completion, and we bought them the same as we bought several million other bonds from them.

Mr. SPIESS. Does not your bond register show you sold some of these bonds as high as 101?

Mr. COLER. Yes, sir; in some one or two cases.

Senator PILES. What was the average sale value of the bonds?

Mr. COLER. I guess we averaged probably 93 or 94, I think.

Senator PILES. Mr. Spiess, as I understand it the situation is this: There is no doubt now of the legal liability of Santa Fe County for these bonds?

Mr. SPIESS. Absolutely not.

Senator PILES. And you claim they are practically in a bankrupt condition?

Mr. SPIESS. Yes, sir.

Senator PILES. And can not pay?

Mr. SPIESS. They are absolutely insolvent and can not pay. There is a mortgage of more than 60 per cent on every man's property in Santa Fe County, and they can not pay. I have prepared a careful statement of this railroad indebtedness which I would like to leave with every member of this committee.

STATEMENT OF N. B. LAUGHLIN.

Mr. LAUGHLIN. Mr. Chairman and gentlemen, I do not think there is anything I can say that has not been said, except I think I have had probably more to do with this bond question than anyone else. I did not vote for the first bond issue because I was not at that time a qualified voter in Santa Fe County, but I was there at the election. I think the election was in the latter part of 1879, and I was there only a few months prior to that time. General Wallace, who was at that time governor, certified to these bonds, or rather, not to the bonds, but certified to the facts. General Wallace would not certify to anything not absolutely correct. He is a very dear friend of mine. That was in April. He certified that the road from Lamy Junction, where the chairman and Senator Dillingham will remember getting off to go to Santa Fe, 18 miles, had been constructed. He also certified that the line from the eastern portion of Santa Fe County and the western portion, some 12 or 15 miles, from Lamy Junction west had also been constructed in accordance with the proclamation.

You may be interested in asking why it was that these two certificates were made. The fact was when they worked up the people to the idea of voting they thought it was coming to Santa Fe on the main line. But it turned out they did not come to Santa Fe, for some reason—I do not know what, only from hearsay. But they left the town, which was at that time the most important place between Dodge City away off there in Kansas, clear off to the coast. Santa Fe was the headquarters for all the army and had been under three governments; the military post was there and all the supplies and everything were centered at Santa Fe.

The CHAIRMAN. That was in 1880?

Mr. LAUGHLIN. In 1879, and prior to that time. There were only from 450 to 500 tax payers on the roll; that was all. And they run from \$1 up to probably—I think at that time the First National Bank was the largest taxpayer of the county. The bank turned in just exactly what property it had, which amounted to about \$1,600 in taxes, and it ran down then to a dollar. There were not over 500 taxpayers on the roll. That law of 1872 under which these bonds were voted provided that they should issue bonds in aid of the construction of the railroad to an amount not to exceed 5 per cent. Well, everybody was anxious to get a railroad. I would have voted for it if I could, and I think that everybody else that had any enterprise wished to vote for it. Men had traveled over the trails long enough. I have ridden a thousand miles on a pony, going to Santa Fe.

Senator FRAZIER. I understand you to say at the time the vote was taken the understanding was the main line was to come to Santa Fe?

Mr. LAUGHLIN. That is my information only, because these arrangements were all made—

Senator FRAZIER. They were not voted especially to build a connecting line to the Denver and Rio Grande?

Mr. LAUGHLIN. No; that was never my understanding. The people did not understand very much about it. That is the fact. But for this purpose they could issue only \$76,000, because that was 5 per cent on all the taxable property, or on the assessed value. They issued \$76,000 for this branch line from Lamy Junction, and

\$74,000 on the main line. They held two elections the same day, but the people did not know it. They simply went to the election. Those are the facts, because I was employed by the county to test the validity of these bonds, with some other gentlemen, and we carried it to the Supreme Court and we lost on it. We could not get an appeal; we tried to, but could not get it. In the meantime this Pima County case came up. The court decided the bonds were invalid. Ours were issued under the same section of the organic act, exactly the same as the Arizona bonds. So that disposed of that proposition.

I am simply attempting to show you how few people there were paying taxes. I want to say, further, the people were not to blame. They were trying to build up the country, and the Government of the United States was giving all the influence it could in military circles, because that is practically all we had there. General Wallace was at that time governor, and we were all trying to do something. The military post was there and they complained they did not have anything but a military telegraph line. They wanted to get out South.

Soon after that, from that time on the Indians were pretty bad then. There were several uprisings in the western part of the Territory up to 1886, when they were finally subdued by General Miles and General Wood and two or three others of the present military men. They were all interested there at the time.

As stated by Mr. Spiers, the Denver and Rio Grande built down to Espanola, which is within 30 miles of Santa Fe.

MR. SPIERS. Thirty-eight miles.

MR. LAUGHLIN. Well, they sell tickets for 38 miles, but I know it is nearer 30 miles. Then we voted four times on that proposition. The army was moved away about that time, the post breaking up under order of the War Department abandoning a number of these smaller posts, and establishing themselves at Wingate, in Arizona. That was leaving the town in a pretty bad fix. The main line had gone on. We were on a branch. We had to travel this 25 or 30 miles to Espanola to go up into Colorado; that is, all the southwestern part of Colorado and northern New Mexico. We were trying to get somebody to take it up. Finally, I think it was on the fourth time we had voted to grant these bonds, Senator Brice, or at least through his influence, came out there and took up these bonds, built that railroad, and we gave him the \$150,000 of bonds, 5 per cent.

THE CHAIRMAN. That made \$300,000?

MR. LAUGHLIN. Yes, sir. And Governor Ross, who was governor at the time, made some kind of certificate which the law required, the same as General Wallace made. There was nothing wrong. It was simply a certification of the facts. The bonds were issued, and issued in good faith. The railroads are there to-day and have been there ever since the days when these certificates were issued showing the railroads had been built and were being operated. They have been there every day from that day to this, except when floods come and wash them out, and then they are rebuilt again. It has cost both railroads a good deal of money in that way.

So far as that is concerned, there is no question about the consideration of these bonds. They are there to-day. The fact is I think there was interest paid on the Atchison, Topeka and Santa Fe issues

for 1880, 1881, 1882, 1883, and some in 1884; a little less in 1885, and in 1886 they quit. Then in 1889 these suits came up. I do not believe there has ever been but very little interest paid on any of the bonds issued to the Texas, Santa Fe and Northern, which was the road running from Santa Fe up to Espanola. I do not believe there has been any interest, except where some men were speculating in a few coupons once in a while, buying them and working in a little interest in that way.

There has been really little levy made each time. When the Supreme Court declared these bonds invalid they did not pretend to levy for anything at all. The chairman has very properly asked why we did not pay the interest. I have no apologies to offer at all. I paid my taxes, and a great many others did, but a great many others did not. The principal reason is this: They have the bonds all mixed up, until it will take some time to straighten out and see just what these railroad bonds were and how much interest is due on them, and to separate them from the court-house bonds and all the other kinds of bonds, floating indebtedness, and so forth. It used to be a great business to speculate in county warrants, and no doubt Senator Hughes probably remembers some things occurring in Colorado. However, that is the fact. The people objected to paying because the railroads would not pay, and the railroads would not pay because the people would not pay. So the fact is they have paid nothing.

Coler and Chapman employed Vail & Waterman of Denver to bring suits in 1900. They retained me as the local attorney with them, and we brought these suits and got judgments on overdue interest, amounting to \$137,000 and something over. Those judgments are still pending. Well, Mr. Coler was pressing the matter very hard and I went ahead. Vail & Waterman wrote me we must do something. So I got busy. I went out and got a mandamus and I got a levy to pay that \$137,000, which amounted to 8.2 per cent on the taxable property of that county for the year. I got the levy and got it on the books and that is as far as I got, for I did not collect a dollar. I do not think Mr. Spiers has been any more successful.

The CHAIRMAN. How would the officers divide the levy?

Mr. LAUGHLIN. They just prorated it on taxable property. I got a special order made.

The CHAIRMAN. They would not obey the mandamus?

Mr. LAUGHLIN. They would not obey it, but they would not sell the property, because they said they had no money to advertise the sale and that it had to be advertised before it could be sold. We stopped.

The CHAIRMAN. Why was it they did not pay these court-house bonds, or even the interest on them?

Mr. LAUGHLIN. Just because they did not want to pay them.

The CHAIRMAN. Of course they got the court-house?

Mr. LAUGHLIN. Yes, sir.

The CHAIRMAN. And the debt was plainly valid?

Mr. LAUGHLIN. Yes, sir; and there were a great many others, too.

The CHAIRMAN. They had plenty of money to pay for that court-house?

Mr. LAUGHLIN. There was \$57,000.

The CHAIRMAN. It was \$40,000 at first.

Mr. LAUGHLIN. They were issued. I think the contract was for \$20,000, but they always issued double the amount. The people bought them and funded them and the bonds became valuable. The county has no money and never has had.

The CHAIRMAN. They had enough money to pay interest on the \$40,000?

Mr. LAUGHLIN. Yes, sir; and they ought to pay it, not only on the \$40,000 court-house bonds, but on a great many other bonds. But they take the position that it is all mixed up, so they do not know what they are paying on.

The CHAIRMAN. Of course, as a matter of fact I say the court-house bonds merely as an illustration. The court-house bonds are not mixed up with the railroad bonds?

Mr. LAUGHLIN. No, sir.

The CHAIRMAN. They actually built the court-house?

Mr. LAUGHLIN. Yes, sir.

The CHAIRMAN. That is, the other fellows who bought their bonds built their court-house for them?

Mr. LAUGHLIN. Yes, sir.

The CHAIRMAN. And certainly they could pay interest on \$40,000.

Mr. LAUGHLIN. Well, I have no apology to make for them. They simply would not pay them; that is the truth, and that is what you want.

Senator PILES. Are the people of New Mexico in favor of assuming this indebtedness?

Mr. LAUGHLIN. You mean as a State?

Senator PILES. Yes.

Mr. LAUGHLIN. I am not, myself. I do not know. I never heard any expression on it. It simply involves a little more machinery to collect taxes and makes it a little more expensive. In regard to my position, I am here representing nothing, simply that the people sent me here. They had a meeting. None of us knew exactly what it was about. Probably there were 50 or 100 citizens at a meeting, and they asked us to come and try to get relief out of Congress on these railroad bonds, on the county indebtedness, and that is all in the world I am interested in.

Senator FRAZIER. What have you to say as to the equity or justice of the Territory or the State, as it is, of New Mexico, assuming the indebtedness of Santa Fe County?

Mr. LAUGHLIN. It does not help us any at all. As I understand it, in Arizona the Territory of Arizona (although I may be wrong) simply assumed all the county indebtedness, and then they make the counties pay the Territory.

The CHAIRMAN. That is something between the county and the Territory.

Mr. LAUGHLIN. Yes, sir.

The CHAIRMAN. But it would help you out in Santa Fe County if the new State assumed all indebtedness. Some person here made a good argument to the point that not Santa Fe County, but the entire Territory, had been benefited by the building of the railroads.

Mr. LAUGHLIN. There is no question about that.

The CHAIRMAN. So, of course, if the new State did assume all of this Santa Fe bond indebtedness it would help the people of Santa Fe County out.

Mr. LAUGHLIN. Very materially, provided Santa Fe County was relieved from it. But if Santa Fe County has to become a debtor to the State——

The CHAIRMAN. That is something between you—between the county and the State.

Mr. LAUGHLIN. If the State is simply to become an indorser of this indebtedness, and then is going to look to the county for its payment——

Senator FRAZIER (interposing). What my question is directed to is, what equities can be set up, or on what theory can you or anyone insist that the indebtedness of Santa Fe County should be assumed and paid by the State and Santa Fe County relieved entirely from the responsibility?

Mr. LAUGHLIN. To answer that question as I understand it, there is none, except the general proposition——

The CHAIRMAN. That the Territory got the benefit of these railroads?

Mr. LAUGHLIN. Yes, sir; that the Territory got the benefit of the railroads. There is no answer except that the whole Territory is benefited by the use of the railroads. That is all. And that Santa Fe County risked its credit. Also, they did pay a good deal of interest at first.

The CHAIRMAN. You said here, provided the new State did not load this indebtedness back onto the county?

Mr. LAUGHLIN. That is it.

The CHAIRMAN. The amendment suggested here, which is a new thing to me, would you approve that? It is on page 5, line 6, after the words "New Mexico," to insert "or debts of the counties thereof."

Mr. LAUGHLIN. That is very well.

The CHAIRMAN. After that was adopted, in case the new State should adopt the ordinance under this bill, I do not see how the State could load it off on the county.

Mr. LAUGHLIN. I am trying to get around to that proposition, and say that if the State is going to assume the indebtedness and still hold the county I would be opposed to it, because it makes a little more machinery and more commissions to pay. If the State will assume it, and according to that amendment, then make the State a donation of land sufficient to clear that indebtedness, I am in favor of it.

The CHAIRMAN. That is a different proposition.

Mr. LAUGHLIN. If you make them a donation of land sufficient to pay it, it is all right. And I want to tell you—we must be absolutely frank about these things—we are apt to get in trouble with the rest of the State if the State is called on to assume these things.

The CHAIRMAN. The point I am making is this: If this amendment should be made by Congress in this bill and the bill should pass with this amendment in it, this is a part of the ordinance.

Mr. LAUGHLIN. Yes, sir.

The CHAIRMAN. If the State should adopt this ordinance, it is then provided it shall do it by proper reference in its constitution; then how could the State load the debt onto the county?

Mr. LAUGHLIN. It can not do it after that.

Senator FRAZIER. Would not that be a very strong influence upon the balance of the State to not accept the ordinance?

Mr. LAUGHLIN. That is what I am afraid of. There might be some objection to that. The thing is this: My impression is, and it is my

belief, that as Congress validated these bonds Congress ought to pay these bonds. As to the rest of it, we ought to pay our own debts. Every man and every community ought to pay their own debts.

Senator PILES. In that report which Mr. Speiss left with the committee, in the conclusion of it—I refer to the report made by Senator Davis in February, 1896—it says:

In view of the circumstances above set forth and the fact that these bonds were held by innocent purchasers who paid full value for them, every obligation of equity and good conscience would require that this be made a valid and existing obligation if it lies in the power of Congress so to make it. There seems to be no question as to the compliance by the railroad company with the obligations on its part to be observed. The aid voted by the country induced the construction of this valuable railroad, evidently so much desired by the people of Santa Fe County, and the obligations its people, by five successive votes, assumed should be met and the credit and honor of the county maintained.

It would seem from that that the people five times voted that the obligation should be met.

Mr. LAUGHLIN. That is true.

Senator PILES. Then why should they not pay it?

Mr. LAUGHLIN. Just because they would not pay it; that is all. And to-day it may become such a burden that they simply can't pay it. There is no use of talking. I have been joking with Mr. Coler since I have been here on his talk in reference to the bondholders wanting to come in and make us pay that. Well, they will have to take the property, for they can not pay it. The bonds that are valid ought to be paid; every bond in that county, so far as I know anything about it, is a valid bond and ought to be paid. But, as stated by Mr. Spiess, you understand that when people get so involved they quit paying anything when they sometimes could pay a little.

The CHAIRMAN. They were not so involved at the time of the court-house obligation?

Mr. LAUGHLIN. No; there is no apology for that and they ought to be paid. But they have not been paid. They will have to be paid some time. There is no getting out of that at all. But we can not possibly pay them. They have a million three hundred thousand—I think a million and a half, nearly that much, when it all gets summed up. You know how counties run that way. There is that \$1,300,000 indebtedness on that county, with a pretty fair valuation to-day of a little over two millions. I know the valuations are not excessively below what reasonably should be turned in for purposes of taxation. I know of a great deal of land there I would not pay 5 cents an acre for that is turned in at 20 and 30 cents an acre, any quantity of it, millions of acres of it, which is not worth over 10 or 15 cents an acre. Of course there is other land that is worth \$100 an acre, running down to \$15, \$20, \$30, and \$40 for timber. Once in a while you find water, which is where it becomes specially valuable. I am talking about nonmineral land. You take timber land and sometimes water land in these dry countries and it becomes very valuable. Timber land is often worth probably from \$20 to \$30 an acre. It is all in forest reserves, however, now, I think. If a man should buy it at that figure he would make a big profit.

The CHAIRMAN. I understand you to especially approve the restrictions placed about the disposition of this land?

Mr. LAUGHLIN. Mr. Chairman, you could not make it any too strict for me, and I wish there was some way to place a restriction in the constitution so we could not get in debt any more.

The CHAIRMAN. We have done it as far as possible.

Mr. LAUGHLIN. I think so. I wish there was some restriction that could keep us from getting in debt any further.

Senator BURNHAM. And yet you wanted to be a State?

Mr. LAUGHLIN. Yes, sir.

The CHAIRMAN. It is not apropos at this stage of the proceedings, but I understand you approve the provisions of the bill separating the election on the constitution from the election of officers?

Mr. LAUGHLIN. Yes, sir; I have always been in favor of that. There is no proposition I am against unless it be that capital question.

The CHAIRMAN. That is a different question.

Mr. LAUGHLIN. If that could be voted upon some time, I would like to have that submitted and have done with it. It keeps the people disturbed with rumors that it is going to be moved.

Senator PILES. How many people are there in Santa Fe County?

Mr. LAUGHLIN. About eight or nine thousand.

Senator BURNHAM. You have a capitol building?

Mr. LAUGHLIN. Yes, sir. We built one costing about \$150,000. It stood about three years and then burned down without any insurance. Then they built another one, a beautiful one, which is a fine building, all equipped; with a governor's mansion and everything necessary, everything in first-class condition. The Territory is in fine condition financially.

Senator BURNHAM. You pay interest on those bonds?

Mr. LAUGHLIN. On everything. We have a surplus right now.

Senator FRAZIER. In view of the fact that Congress validated the bonds of this county which were invalid, do you think it is more equitable for the State, or the Territory, as it is now, to pay the county's bonds than it is for the Government to pay them when the Government has made what was invalid valid?

Mr. LAUGHLIN. I think the Government should pay it.

Mr. SPIESS. So do I.

Senator FRAZIER. So you do not favor putting in the ordinance the suggested amendment that the State should assume these bonds?

Mr. LAUGHLIN. If Congress will donate sufficient land to the State to settle these bonds that is the way it ought to be done.

If the Government wants to get down to a business proposition, the cheapest for all concerned, I would suggest an issuance of a restricted scrip for so many hundred acres of land within the Territory of New Mexico, nonmineral and nontimber land, because it costs less and brings more money and is a quicker and better disposition of any obligations of that kind. The United States could keep it all the time. That is, the Government could hold the scrip all the time until disposed of for that purpose.

The CHAIRMAN. There are two propositions here, Senator Frazier, one the amendment suggested by Mr. Spiess, on page 5, which has been explained, and the other is to put in a 3,000,000-acre appropriation, as is done in the House bill, which is devoted to the payment of territorial and municipal indebtedness. In case the last was done there would be no practical necessity for the first, which would be included in it. In case the first is done, then the bonds would be paid notwithstanding the nonappropriation of 3,000,000 acres of land.

Senator FRAZIER. The only question was whether the State or the Government of the United States shall pay for them?

Mr. LAUGHLIN. That is all.

Senator PILES. What section contains the land appropriation?

The CHAIRMAN. It was in the House bill. I believe, Mr. Laughlin, your politics are Democratic, and these other gentlemen are Republicans?

Mr. LAUGHLIN. Yes, sir.

The CHAIRMAN. So it is a nonpartisan proposition with you about the rigid restrictions we have thrown about the land we appropriate and about the way we separate elections.

Mr. LAUGHLIN. Yes, sir.

(Thereupon, at 4.30 o'clock p. m., the committee adjourned.)

SATURDAY, *February 19, 1910.*

The committee met at 2.15 o'clock p. m.

Present: Senators Beveridge (chairman), Dillingham, Kean, Piles, Frazier, and Hughes.

STATEMENT OF HON. MARK SMITH, FORMER DELEGATE FROM ARIZONA.

The CHAIRMAN. Now, Mr. Smith, the committee would be very glad to hear from you concerning the question of those bonds in Arizona, with which you are more familiar than anybody else. We heard yesterday afternoon concerning the New Mexican bonds. You may proceed in your own way.

Mr. SMITH. Mr. Chairman and gentlemen of the committee, the history of these Pima County bonds is written in the Supreme Court of the United States.

In about 1882, the legislature of Arizona passed a mandamus act requiring the county of Pima, in which I live, to issue bonds in aid of the construction of a narrow-gauge railroad from Tucson, Ariz., the county seat of Pima County, to the city of Globe, the county seat of Gila County, and also the locality of a great mining camp.

Pursuant to that act of the legislature, the board of supervisors of the county of Pima issued bonds, the agreement being that they should give so many county bonds in exchange for so many railroad bonds on the construction of a certain number of miles of railroad, as you can see in the act of the legislature of 1882.

The road was graded—that is, with a plow—10 miles out of Tucson; the ties were laid somewhat nearer together than I am to the chairman of this committee, and rails were tied to them or attached to them. That was all the railroad that was ever built.

The specified number of bonds for that much construction were exchanged for the railroad bonds. There has always been a denial on the part of the people of Pima County that any other than these bonds were ever delivered. The bonds were in the safe of the treasurer of the county in those days. Somehow they got out of it and got into circulation. The county of Pima resisted payment of these bonds in the suit of *Lewis v. The County of Pima*. That appears in the Supreme Court reports.

The CHAIRMAN. 155 U. S.?

MR. SMITH. 155 U. S.; yes, sir. The county of Pima resisted successfully the payment of those bonds. The Supreme Court decided in the case of Lewis against the county that they were void in their issue; there never was any validity to them. Subsequent to that the county of Pima did nothing. It had nothing to do. The bill for the purpose of validating those bonds appeared frequently in Congress when I was a Member. It never got further than the committee of which I was a member. I was out of Congress one session. My successor appeared here, and the bill was passed through Congress validating these Pima County railroad bonds.

I want to explain to the committee some facts on which that decision rested. There was no contention about any county bonds or other obligations of the Territory, except these Yavapai County and Pima County bonds; the rest were deemed valid. Nobody wanted to avoid payment on them.

A gentleman appeared before the Arizona legislature and got through that legislative body a resolution or memorial to Congress, asking Congress to validate all legal obligations of the Territory, to show that we were not repudiationists. The man who got this resolution through was claiming that he was going to build what was known as the North and South Railroad in Arizona, and he could not liquidate the bonds on which he purposed to build the road unless he had some assurance from the legislature that we were not repudiationists and would pay our just obligations, and in order to help him to sell such bonds for such purpose he asked them to pass this memorial, on which the Supreme Court rested much of the decision in the subsequent validation of those bonds in the case of *Utter v. Franklin*. The Supreme Court rested its decision largely on this memorial of the Territory of Arizona; but if you will read that memorial you will find that it said, "All obligations of the Territory which have been recognized and on which interest has been paid," which was tantamount to an exclusion of the Pima County bonds, for they fell within that excluding clause. They never had paid a cent of interest on them. Notwithstanding, the Supreme Court validated them.

We resisted it in *Utter v. Franklin*, in the case of *Murphy v. Franklin*, and in the *Vail v. The Territory* case. That was decided about two years ago.

The county fought the bonds from the day of issue until the Supreme Court ultimately decided against it, and in the *Utter* case it not only decided that these bonds were valid, but they substituted men for the old loan commission which the legislature had abolished, in order to prevent the commission from carrying out the harsh decision of the Supreme Court. In other words, the Supreme Court created a new loan commission to take the place of the one that had been abolished by the legislature. Our last efforts in the subsequent trial met with the same result, and those bonds are now an obligation that we are bound to pay, without a particle of consideration ever having been received. We have resisted it every minute and in every tribunal that would hear us—Congress and everywhere else—I do not know about Congress, for I was not here at that time. While I was here we successfully resisted it.

Those bonds, they claim, fell into the hands of innocent purchasers. We would like Congress to-day to repeal the act that validated those

bonds, but you all know the difficulty of getting anything through Congress. I tried to do it, but could not. Now we find these same infamous bonds arising to impede the statehood bill.

The CHAIRMAN. How did they ever get Congress to validate those bonds?

Senator DILLINGHAM. That was done during the time that Mr. Murphy represented the Territory as Delegate.

Mr. SMITH. Yes; not when I was here. It would not have been done yet if I had been here all the time.

Here is the condition that confronts us: My county has got to pay ultimately more than a half a million of dollars—yes, by the time those bonds are due it will amount to much more, even double that sum. Ultimately we have got to pay that for nothing on earth in return. We have to bear that responsibility which Congress has placed on our shoulders, and in which we had no concern or fear until Congress acted.

The CHAIRMAN. You find yourselves in this predicament because of the resolution which was put through the legislature, which was put through, because, as you say, some person wanted to build some other road and stated he could not market those securities unless the Territory did something to show that they were not repudiationists. Even in this resolution, you say they excepted these bonds by a provision to the effect, "all bonds recognized and on which interest has been paid." I assume, without knowing anything about it, that this act, validating these bonds, was gotten through Congress probably on some such similar argument.

Mr. SMITH. I have no doubt, from what the Supreme Court says—

The CHAIRMAN. The Territory is simply, according to your statement, to blame.

Mr. SMITH. The Territory is not in the least to blame for it. The legislature simply says that "We are not repudiationists." They proclaim to Congress and the world, "We will pay every obligation we ever recognized; we will pay every obligation on which we ever paid a cent of interest or which is legally or equitably binding on us." And it is all the legislature ever did say. That was done because a man of great influence, Mr. Frank Murphy, came before them and said he wanted to develop the Territory and that their credit was weakened in the markets of the world, and that he could not get money without such memorial, and made a lot of similar arguments, which you understand, without my repeating, when you understand the purpose.

Senator KEAN. What is the debt of Arizona?

Mr. SMITH. All our county debts have been funded into territorial debts. Our county debt is a debt to the Territory, and the Territory debt is the debt to any of our creditors. I am not at all definite as to what it will amount to, but the record is before the Chairman. I should say it is in the neighborhood of \$2,000,000, maybe three million.

The CHAIRMAN. Of which you say your county will be compelled to pay a million or more?

Mr. SMITH. Ultimately, nearly that; and we don't owe a cent of it.

The CHAIRMAN. Well, of course, as the whole Territory has assumed your indebtedness, it will have to pay that. Your county will have to pay only such proportion of it as the—

Mr. SMITH. On the contrary, our county pays every cent of it. It is a territorial obligation, but we owe the Territory.

Senator DILLINGHAM. The act by which the Territory assumed the obligations of the county was a conditional obligation. It assumed it, in the first instance, to hold a claim against the county to compensate or reimburse the Territory for this indebtedness of the several counties, and the counties are paying it, as I understand, to the Territory, and the Territory is paying it to the creditors.

Mr. SMITH. That is a correct statement of the case.

Senator PILES. To go back to this bond question, have you examined the report of the committee to ascertain whether or not any representations were made to Congress at the time this act validating the bonds was passed as to whether interest had theretofore been paid on these bonds?

Mr. SMITH. No; I did not.

Senator PILES. You do not know, then, upon what that representation was made to Congress?

Mr. SMITH. No such statement could have been made, for no such thing had ever been done, and nobody would come before the committee and make a statement so utterly against the record.

The CHAIRMAN. What did you say the funded indebtedness was?

Senator HUGHES. About two million.

Mr. SMITH. It may be more than that. It may be three million.

The CHAIRMAN. I have a statement from Mr. Richard E. Sloan, dated May 12, 1909, in which he says:

The funded indebtedness of the various counties of the Territory evidenced by bonds issued under the funding act of June 25, 1890, is in the aggregate amount of \$1,494,953.29.

Mr. SMITH. Those are all county obligations.

Senator HUGHES. Is there anything in addition to that \$1,400,000?

Mr. SMITH. Oh, yes; the mere amount of our debt, however, is immaterial to the question I am now discussing.

Now, let us see what is the exact situation of the case as it now stands. How are we going to pay this debt? Our county is already pretty heavily indebted. We have been building schoolhouses out of our own pockets that are an honor to any country in the world. We build public roads and public bridges out of our own pockets. We have established and maintain the best common-school system that I am acquainted with anywhere. Our county is progressive in every sense, and all of this costs an enormous amount of money.

Indian reservations, forest reservations, military reservations, and a new thing known as the "Monument" reservation have embraced every good piece of land left in Arizona. The forest reserve has taken in every available timber resource of the State. That relegates us, in the payment of those bonds, back to the ultimate desert, for wherever we could settle cheaply we have settled. And let me here say, parenthetically, that I venture the assertion that there has been more timber cut on the public domain in the last two years under the Forest Service than Arizona would have cut in thirty years.

The CHAIRMAN. Let me interrupt you there.

Mr. SMITH. Yes, sir.

The CHAIRMAN. Mr. Smith, you say you are relegated to the ultimate desert. Is it not contemplated that by reason of these recla-

mation propositions and irrigation matters, the building of these dams and all that sort of thing, that desert is to be reclaimed so that it may be occupied by man and made more valuable?

Mr. SMITH. That does not affect our country at all. That all comes down to the valley of the Salt River and the valley of the Colorado.

The CHAIRMAN. Will not that be opened up by this system of irrigation?

Mr. SMITH. Unquestionably there will be 100,000 new acres opened out there.

The CHAIRMAN. In our former hearings here, you and others have said that there would be a vast tract of what is now desert irrigated, and that, you said, would then become the most valuable land in the country.

Mr. SMITH. Unquestionably the irrigation enterprise is going to aid the people there. A vast amount of the land under the Roosevelt dam—if I may divert from the purpose about which I am talking—was already in actual occupancy—the vast majority of it. Those men have to pay for this dam. There is not an enterprise there that will not be paid for out of our own pockets. The Government does not give us a cent, except as an advance loan. We must at last pay it; so we are beneficiaries of a loan which we will pay rather than as mendicants asking aid.

Senator FRAZIER. At what do you estimate the value of the unoccupied land per acre which could be given to you for school purposes or for the purpose of paying this debt?

Mr. SMITH. I am free to say that under the land provision in this bill, I would much rather have a million and a half dollars than the 3,000,000 acres donated. Let us make the present selection; I mean under the present method. Some day—

Senator FRAZIER. In other words, the land available for those purposes is not worth 50 cents an acre?

Mr. SMITH. No, sir; you can not sell it under the provisions of this bill. If you leave these provisions to stand, we can not sell it at all. So we are up against that. All that we ask of this committee; at least, all that I certainly ask—

Senator FRAZIER. What do you mean by not being able to sell it at all?

Mr. SMITH. I mean that we can not sell it under the terms of this bill, for the price is above the value.

Senator FRAZIER. Do you mean the Senate bill or the House bill?

Mr. SMITH. I mean both bills. If we took the grant under the provision of this bill, and if we see that it is absolutely impossible to sell it, we would expect Congress to make some other sort of provision for its sale. It would be impossible to sell the lands under the provisions of this bill, for the lands are not worth what the bill requires them to be sold at. The bill puts other restraints on the selling of them which would make it impossible for us to dispose of them at all. But I say we were expecting in that particular that when Congress after statehood saw that the State had made every effort to dispose of the lands at the price fixed, it would relieve us, as far as possible.

Senator DILLINGHAM. Just what is your proposition? What do you suggest?

Mr. SMITH. My proposition would be that the committee of the Senate should make a provision that the Pima County railroad bond debt is absolutely void, which would be the proper thing to do. That is exactly the way I feel about it. Perhaps you can not do that with this "innocent purchaser" matter coming up; but if that can be done that would be the way out of it. If that can not be done, Pima County will have to pay the interest on those bonds every year and provide for a sinking fund to meet the unjust debt when due. Ultimately we will have to pay them unless you relieve us; we are now being impoverished. You throw, by your act of Congress and the decision of the Supreme Court, the obligation of this debt on the people who had nothing to do with its creation.

Senator DILLINGHAM. In that event, what is your proposition?

Mr. SMITH. In that event my proposition is to take this House bill—and although we are not satisfied with it, we do not think we can get any better—and let the Territory make the best out of it that it can.

The CHAIRMAN. You would prefer three propositions: First, you would have the United States pay the debt. If that is not done, you would rather have a million or a million and a half in cash, and, third, if that can not be done, then the 3,000,000 acres appropriated by Congress in the House bill?

Mr. SMITH. That is it.

Senator KEAN. But you would rather have the United States pay the debt?

Mr. SMITH. We do not care two cents for that, so we don't have to pay it.

Senator HUGHES. Let me see if I understand you. This debt has no existence, save by the act of Congress?

Mr. SMITH. Not one particle on earth.

Senator HUGHES. Under the decision of the Supreme Court, the people did not get the thing it was supposed to pay for?

Mr. SMITH. Not a bit of it.

Senator HUGHES. Then Congress validated it?

Mr. SMITH. Yes.

Senator HUGHES. And the Supreme Court has sustained that validation act?

Mr. SMITH. Yes; and mandamused us to pay the bonds.

Senator DILLINGHAM. And the misery of it is that those bonds got into the hands of innocent purchasers, when, as a matter of fact, those bonds disappeared from the treasury.

Senator HUGHES. They were stolen?

Mr. SMITH. I said I don't know how they got out.

The CHAIRMAN. Mr. Smith, if you have concluded upon this bond feature, I wish to ask you a question about another phase of this bill. I would like to know if you have anything to say concerning the qualifications of voters in the Territory and the provision of the bill concerning such qualifications under which you were elected, Mr. Murphy was elected, and other delegates were elected, down to this new legislation by the legislature, under which new qualifications have been prescribed.

Mr. SMITH. Nothing in the world except this: The chairman himself is conscious of the fact that by his investigation great publicity has been given to the ignorance of those Territories. We have

fought in every way for statehood; we have tried to do all we can; we have tried to build up a great State; and we have tried in every way possible to get into the Union as one. The territorial legislature that placed the educational qualification in its election law was, I think, about four-fifths Democratic. That was the last legislature. The then governor of the Territory, whom you probably know (Mr. Kibby), told me personally before that election came off for the legislature, "that we should put an educational qualification in our election law." But let that go by the way. I do not care what he said.

I opposed for years and years here Congress passing a law to prevent gambling in the Territories, and I was as much opposed to gambling as any man in that body. I told Congress that if they would let those people alone, they would pass a law that the people would enforce. And they did it long ago. When the Senate was trying to pass a bill to stop it, the people themselves, in their next legislature, did it.

And with respect to all of the things that grow out of the western conditions, we reach up toward that higher and older part of this great country. We copy New England; we copy some of the most highly educated States in the Union; and we are amazed when we come before Congress to-day to find that they seriously question our right to fix the qualifications of electors, which qualification consists of nothing aside from our old laws, except an ability to read the Constitution of the United States.

It is going backward and reversing the operation in every statehood bill since Alabama was admitted up to this date, to question the right of a local community to fix the qualifications of electors. That right has never been questioned by Congress, and the first time this question was ever brought up was in the bill which the chairman introduced.

I want to give the committee a few more facts. We have got native-born people of different nationalities with as high a degree of education as is possessed by any people I know of in any district in the United States. I know a very large number of the negroes in our Territory (there are not many of them), and I know only one who can not read. Every Mexican boy, every Mexican from 25 to 30 years of age in my part of Arizona and who really lives there, can read English; but we have thousands of Mexicans and others traveling around from railroad to railroad, doing work for them, and the purpose of the legislature, I think, was to confine the vote in Arizona to the citizens of the United States who live in Arizona.

The CHAIRMAN. Let me ask you this question. Is there not a large number of your excellent citizens down there of Spanish descent who live out in the country on ranches, the younger ones of whom you said a while ago—those between the ages of 25 and 30—can all read English, but the older ones of whom have not learned to read English?

Mr. SMITH. Do I understand your question is, how many people living out on the farms of Mexican—

The CHAIRMAN. Yes; who can not read English, but who can read Spanish.

Mr. SMITH. That is impossible for me to tell.

The CHAIRMAN. Would you say there are two thousand?

Mr. SMITH. No, sir.

The CHAIRMAN. Eighteen hundred?

Mr. SMITH. No, sir. I do not think there are a third that many voters really living there who can not read English.

The CHAIRMAN. A thousand?

Mr. SMITH. I do not think there are nearly a thousand Mexican voters that can not read in the whole Territory, if you leave out Apache County, and even including that county.

The CHAIRMAN. Including that county, how many?

Mr. SMITH. Only about two or three hundred Mexican votes in the county.

The CHAIRMAN. Perhaps a thousand all told, then?

Mr. SMITH. I do not think there would be a thousand in the whole territory.

The CHAIRMAN. This thousand, by that act, would be disfranchised?

Mr. SMITH. No more than my son would if he could not read.

The CHAIRMAN. They can read Spanish, but not English?

Mr. SMITH. Oh, no, sir. You will find that nearly everybody that reads one reads both.

The CHAIRMAN. When we passed through the Territory we found the old people, who were pretty substantial people—the fathers and mothers—were not able to read English, but took and read papers published in Spanish. Their children, however, spoke English.

Mr. SMITH. Those must have been very rare instances, for there were small means of education before our common schools came there. They had to go to parochial schools. You found very few in Arizona.

The CHAIRMAN. Such of those as there would be would be disfranchised through this act?

Mr. SMITH. Unquestionably. Any man in the Territory that can not read the Constitution of the United States in the English language can not, under that act, vote.

The CHAIRMAN. Is not the provision in the new law to the effect that voters shall be able to read a section of the Constitution selected by the board in such a manner as to convince the board that it has not been committed to memory and recited by rote?

Mr. SMITH. That is virtually the proposition.

The CHAIRMAN. Such, then, of those older people who have raised up their families, but who can not read the Constitution in English, although they might in Spanish, would be disfranchised?

Mr. SMITH. How could they read the Constitution, because I never saw the Constitution of the United States printed in Spanish in Arizona?

The CHAIRMAN. I don't know; I saw it printed in Russian.

Mr. SMITH. So have I. I saw it printed in every language of the world, but I never saw a copy of the Constitution of the United States printed in Spanish in Arizona. They have plenty of them in New Mexico.

The CHAIRMAN. But speaking of educational qualifications, would you say it was confining it purely to educational qualifications to make it necessary for a man to read the Constitution in the English language? For instance, a man may be perfectly competent to read it in German or French and not be able to read it in any other. The members of this committee here can read anything in English, but

I do not know more than one or two who can read French fluently. Do you think they should be debarred as not being educated?

Mr. SMITH. What I think is not the question. What I think is immaterial. You may be debarred in Germany for not being able to read the German language. It is a matter the people themselves have the right to settle.

Senator FRAZIER. Is not the danger of our changing the qualifications of electors and abrogating, in effect, this territorial statute fixing the qualifications, that Mexicans along the border, which, as I remember, is quite extensive—two or three hundred miles—who are not residents of Arizona, can come over the state line and participate in these elections? Was not that really one of the purposes of the passage of this act?

Mr. SMITH. I have no doubt in the world that the legislature of Arizona, when it passed that act, had no other purpose in view than to absolutely prevent the importation of people from another country into our country for the purpose of voting.

Let me show you how easy and simple it will be if you have money enough. We have a great register, and a man only has to tell the register that he is a citizen of the United States and swear to it, giving his name and residence. He gets on the great register. Of course, there is a penalty against false registration, but that is the last time that fellow will ever be seen in Arizona, and within six or seven or eight months of registration you have thousands of names of men imported there from another country, working on the railroad. These men pick up and go home whenever they please. They do not belong to our country at all. The man who has the money and the inclination and the want of conscience can be very successful by the use of this device.

The Arizona legislature tried to avoid that. They do not want to cut out a single Mexican whose residence is in Arizona. They do not want to do that. They get as many of those votes as the Republicans do. They cut out this particular class of foreigners for the purpose of keeping our elections as pure as they can keep them. I imagine that is what prompted the legislature. I was not there.

The CHAIRMAN. The election boards are appointed by supervisors in Arizona, are they not?

Mr. SMITH. Our election boards are appointed by the supervisors of the county, and our law requires that there shall be two members of one political faith and one of the other. Our custom now is to let the Republicans in the Republican counties—the Republican machine, if you please—select the two they want. The Democrats select the one for the election board. So that the supervisors are not often accused of trying to play politics in this.

The CHAIRMAN. What would be the practical operation of this new law concerning the qualifications of voters in the hands of a partisan election board, irrespective of party, as to the control of the voting?

Mr. SMITH. I do not see how it could have the least effect in the world if all three were Republicans or if all three were Democrats, and anybody looked on at the election. It is a very simple thing. "Can you read this?" "Yes." "Read it." And that is all there is in it.

The CHAIRMAN. Suppose you and Senator Frazier and myself, all three being good Republicans, or good Democrats, or good anything else, should constitute the election board in a certain case, and we

would say to Senator Dillingham, here, when he came to vote, "Read a section of the Constitution." Then we would say, "The Senator read it exactly as if he committed it to memory." Would you throw his vote out?

Mr. SMITH. No, sir. We would say, "Read another section. Turn over three pages."

The CHAIRMAN. Suppose he should read that section in the same way?

Mr. SMITH. Oh, Senator, if you are going to have the elections stolen by corrupt returning boards, we can not do anything in the world except to try to make them as clean as we can get them.

Senator FRAZIER. With the board composed of two members of one party and one member of the other party, all three would not be apt to?

Mr. SMITH. Certainly not.

Senator DILLINGHAM. If the real object of this law is to prevent the importation of voters from another country, why would it not be much better to put the punishment upon those voters? They can not be brought in there without some sort of knowledge.

Mr. SMITH. You can not imagine how many people pass over 300 miles of border line between two counties. I will tell you how easily it can be done. You can do it easily enough by taking Mr. Ramon Soto, for instance, or any other ideal gentleman who happens to be traveling through the Territory of Arizona. In a short time a gentleman by that name appears on the register, and as that is all you want of him, he goes on his way rejoicing. He is immune against any sort of punishment. You can not identify him. Afterwards Mr. Jesus Gonzales comes along, whom nobody knows except the election worker. He is Mr. Soto. "Yes, I am the same identical man. I registered." "Where do you live?" "Live down here at the next station." That gentleman votes; both of them are gone, and that is the last you hear of either of them.

The CHAIRMAN. Is there anything else you wish to say about this?

Mr. SMITH. All I have to say is that, in my opinion, this measure was designed to prevent fraudulent voting rather than to keep anyone from voting who is entitled to vote.

As to the question of educational qualifications, that is a matter, it seems to me, that should be left to the people themselves. I do not think it is anybody else's business, to be perfectly frank about it. I think it is an intrusion on the rights of the people themselves for strangers to them and their interests to tell them what particular things they should do and how they should do them. Whether I agree with that statute or not, and since I have been here, I have said nothing about my adhesion to it; but if I do not agree to it, I would never think of suggesting to this committee to change the qualifications in this bill, for it endangers the passage of it.

The CHAIRMAN. I want to ask you one or two questions. How long have you had a Democratic legislature down there?

Mr. SMITH. Thank God, nearly all the time.

Senator KEAN. When was this statute passed?

Mr. SMITH. It was passed by the last legislature. They keep trying to improve all the time.

The CHAIRMAN. Are there any more questions, gentlemen?

Mr. SMITH. I want to say for the information of the committee that I have not the least idea that this thing was aimed at the resi-

dent Mexicans of Arizona; I believe the legislature was sincere, and I believe the same number of Republicans in the legislature would have done the same thing. That is what I believe. The resident Mexicans of Arizona are, as a class, as good citizens as any country needs. I am not here, however, defending or assailing our local statute, for the simple reason that taking either side I might in some way cause offense and endanger delay or possible defeat of the statehood bill. My purpose here is to get the bill passed. Any such amendments as here suggested may endanger that result. That's all.

(Thereupon, at 3.20 p. m. the committee adjourned.)

WASHINGTON, D. C.,
Monday, February 21, 1910.

The committee met at 11 o'clock a. m.

Present: Senators Beveridge (chairman), Dillingham, Burnham, Kean, Dick, Piles, and Hughes.

Hon. Ralph H. Cameron, Mr. Robert E. Morrison, and Mr. J. L. Hubbell appeared.

**STATEMENT OF HON. RALPH H. CAMERON, DELEGATE FROM
THE TERRITORY OF ARIZONA.**

MR. CAMERON. Mr. Chairman, I have some Arizona people here with me who would like to make a statement before the committee to-day. As I shall be here right along, I am willing to give them the time this morning; but while I am before the committee I should like to have inserted in the hearing of to-day a copy of the act pertaining to the educational qualification of electors in Arizona, if there is no objection.

The CHAIRMAN. None whatever.

(The paper above referred to is as follows:)

AN ACT To amend paragraphs 2282, 2284, 2285, 2288, and 2289, Chapter III, Title 20, Revised Statutes of Arizona, 1901, relating to qualifications of electors, and paragraphs 2374 and 2375, Chapter IX, Title 20, Revised Statutes of Arizona, 1901, relating to voting and challenging.

Be it enacted by the legislative assembly of the Territory of Arizona:

SECTION 1. That paragraphs twenty-two hundred and eighty-two, twenty-two hundred and eighty-four, twenty-two hundred and eighty-five, twenty-two hundred and eighty-eight, and twenty-two hundred and eighty-nine, chapter three, title twenty, Revised Statutes of Arizona, nineteen hundred and one, be amended to read as follows:

"2282. (Section 11.) Every male citizen of the United States, and every male citizen of Mexico who shall have elected to become a citizen of the United States under the treaty of peace exchanged and ratified at Queretero on the thirtieth day of May, eighteen hundred and forty-eight, and the Gadsden treaty of eighteen hundred and fifty-four, of the age of twenty-one years, who shall have been a resident of the Territory one year next preceding the election and of the county and precinct in which he claims his vote thirty days, and who not being prevented by physical disability from so doing is able to read the Constitution of the United States in the English language in such manner as to show he is neither prompted nor reciting from memory, and to write his name, and whose name is enrolled on the great register of such county, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; but idiots, insane persons, and persons who have been convicted of a felony shall not be entitled to nor allowed to vote.

"2284. (Section 13.) Prior to any general or special election hereafter to be held, the board of supervisors of any county shall, by order, require a reregistration of the voters of such county, which order shall be published in at least one newspaper

published in such county, or if none be published, one having a general circulation therein, for not less than thirty days preceding the next ensuing election.

"2285. (Section 14.) Such reregistration shall conform in all respects to the provisions hereof concerning original registration. All registering officers shall be allowed the sum of twenty cents per name for registering or reregistering voters.

"2288. (Section 17.) No person's name must be entered by the recorder unless:

"1. Upon a certificate of registration in another county, showing that such registration has been canceled, and upon proof by the affidavit of the party that he is an elector of the county in which he seeks to be registered.

"2. Upon the returns of the registering officer of the county made to the county recorder, together with the affidavits taken.

"2289. (Section 18.) Before anyone applying for registration can be registered he must make an affidavit in writing before the registering officer, wherein must be stated and shown each and every fact entitling such person to be registered and also the facts required to be stated on the great register, except the date and number, and no person shall be registered who not being prevented by physical disability from so doing is unable to read the Constitution of the United States in the English language in such manner as to show he is neither prompted nor reciting from memory or unable to write his name."

SEC. 2. That paragraphs twenty-three hundred and seventy-four and twenty-three hundred and seventy-five, chapter nine, title twenty, Revised Statutes of Arizona, nineteen hundred and one, be amended to read as follows:

"2374. (Section 103.) A person offering to vote may be orally challenged by any elector of the county upon either or all of the following grounds:

"1. That he is not the person whose name appears on the register.

"2. That he has not resided within the Territory for one year next preceding the election.

"3. That he has not resided within the county or precinct for thirty days next preceding the election.

"4. That he has before voted that day.

"5. That he has been convicted of a felony.

"6. That he has made a bet on the result of the election.

"7. That not being prevented by physical disability from so doing he is unable to read the Constitution of the United States in the English language in such manner as to show he is neither prompted nor reciting from memory or is unable to write his name.

"2375. (Section 104.) Upon challenge being made, the one so challenged may, if he so elect, be at once sworn to answer fully and truly all such questions as may be put to him by the inspector: *Provided*, Such questions are pertinent and material to the challenge made; and if, after such examination, a majority of the board shall be satisfied that the challenge is not true, the one challenged shall be permitted to vote, else not, and if such challenge be upon the seventh ground specified in paragraph 2374, the party challenged shall be required to read any section of the Constitution of the United States that may be designated by the inspector and may be required to write his name, and if thereupon a majority of the board shall be satisfied that the challenge is not true the one challenged shall be permitted to vote, else not."

SEC. 3. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

This bill having been returned by the governor, with his objections thereto, and, after reconsideration, having passed both houses by two-thirds vote of each house, has become a law this 10th day of March, A. D. 1909.

GEO. W. P. HUNT,
President Legislative Council.

SAM F. WEBB,
Speaker House of Representatives.

MR. CAMERON. I should like also to introduce the governor's veto of March 2, 1909, pertaining to this qualification bill, which is now before you.

The CHAIRMAN. That will be inserted also.

(The paper above referred to is as follows:)

OFFICE OF THE GOVERNOR.

Phoenix, March 2, 1909.

To the council of the Twenty-fifth Legislative Assembly of the Territory of Arizona:

I return herewith the bill passed by the legislature, being bill No. 60 of the council, entitled "An act to amend paragraphs 2282, 2284, 2285, 2288, and 2289, Chapter 111, Title 20, Revised Statutes of Arizona, 1901, relating to qualifications of electors; and paragraphs 2374 and 2375, Chapter IX, Title 20, Revised Statutes of Arizona, 1901, relating to voting and challenging," without my approval, because of the objections thereto, which I state as follows:

The qualification of voters of the old law, which it is proposed to amend, by this bill, were:

1. That he be a male citizen of the United States; or
2. A male citizen of Mexico who shall have elected to become a citizen of the United States under our treaties with Mexico;
3. Of the age of 21 years;
4. Been a resident of the Territory one year next preceding the election, and
5. Of the county; and
6. Of the precinct in which he claims to vote, thirty days; and
7. Whose name is enrolled on the great register of the county, excepting idiots, insane persons, and persons who have been convicted of a felony.

To these qualifications above enumerated this bill adds two others; that is, and I number them for the convenience of reference:

"8. Who, not being prevented by physical disability from so doing, is able to read the Constitution of the United States in the English language in such manner as to show he is neither prompted nor reciting from memory, and

"9. To write his name."

As the absolutely certain result of the operation of this bill, if it becomes a law, is to disfranchise some who have had, ever since the organization of the Territory, the right of suffrage, it must necessarily be presumed that that is the purpose of the proposed law.

The whole spirit of American institutions is so sensitive of any limitation upon the right of the franchise that I think it well enough to give this proposition of disfranchisement careful consideration.

I can not recall that this proposition has been made a subject of discussion in public. It was not discussed or even mentioned by the newspapers during the political campaign preceding the last election, nor was it even most remotely an issue in that campaign.

The bill itself was introduced in your house and passed under a suspension of the rules without being printed and without discussion. It was sent to the house of representatives and there passed in a like summary manner. The utmost expedition was observed in passing the bill.

Of course I would not say that a voter ought not to be able to read the Constitution of the United States, or any other composition, in the English language. That is not, however, the question presented here. The question is, Shall he be disfranchised if he can not read the Constitution of the United States in the English language in such a manner as to show that he is neither being prompted nor reciting from memory.

It was probably the mind of the legislature to raise the standard of the suffrage and to prevent in some degree at least the possibility of a venal and ignorant vote.

Whatever tends to do this is generally to be approved, but it occurs to me that in this effort to raise the standard of the franchise and to some extent eliminate the ignorant vote the doors are widely opened by this proposed law to infinitely greater evils.

In America the tendency has always been toward universal suffrage, notwithstanding there is a sentiment and a proper one that it ought to be limited to the intelligent, to the honest, and to those who have a direct interest in the orderly and just administration of public affairs.

The difficulty has always been to formulate and apply a just rule, by the honest and impartial application of which a classification can be made between the intelligent and the honest on the one hand and the ignorant and the venal on the other. Dishonesty and venality are not necessarily, not probably, even, or ordinarily, the accompaniments of ignorance.

It is not a safe rule to measure the honesty of voters by the degree of their education. For every ignorant voter bought there is some fairly intelligent director who was the purchaser; and of the two, if a choice were compelled, the more ignorant is the less vicious and dangerous. It might be admitted, it is true, that if all men individually could be assigned to one of those two classes—the intelligent or the ignorant—that it would be well to accord to the intelligent the right of suffrage and deny it to the ignorant. But to say that all men in America who can not read the

Constitution in the English language are so ignorant and illiterate that they ought to be denied the right of suffrage is grossly unjust.

For generations there have been settlements in the older States of the Union where the English language was seldom if ever spoken; where the German, or the French, the Scandinavian, or the Hebrew are almost the only languages spoken. Because they do not speak or read or write English is not to denounce them as ignorant, illiterate, and hence venal, dishonest, and corrupt. Such a conclusion would be an unjust imputation against thousands of the best, most honest, most industrious, and desirable citizens of our free, cosmopolitan country. They may not be able to read the Constitution in English, but they who are Germans understand it quite as well as most of those who are able to do so; and so of the French, the Scandinavians, etc.

In many parts of the United States in the earlier days large numbers of immigrants of some particular nationality have settled, constituting practically all of the settlers in this or that particular locality. They brought with them, of course, their mother tongue. And that has been the history of some settlements for many generations. They had their schools, they read, they studied, they cultivated their minds and their talents, and they became and have remained amongst our most intelligent citizens.

Not many years ago it was difficult, and perhaps it may be so now, to say whether a Dutchman is from Deutschland or from Pennsylvania, where his ancestors have lived for generations. To condemn them, nevertheless, because they can not read the Constitution in the English language is at least unjust.

When this Territory was acquired by the United States, by far the largest part of the population were Mexican citizens, speaking only the Spanish language. Those speaking the English language were few and naturally, because the Spanish was largely the predominant language, they at once learned the Spanish language themselves, and our Mexican citizens did not learn English for the very simple reason that there was no necessity for it and little use for it. The treaty of cession by Mexico to the United States provides that Mexicans who remained in the ceded territory for the period of one year from the date of the treaty without declaring an intention to remain Mexican citizens should become citizens of the United States. And they became so, notwithstanding they did not speak the English language. It would have been gross injustice and a direct violation of the spirit of the treaty to have denied them any of the rights of American citizenship because they could not speak and read the English language. I do not deny that they should have as speedily as possible learned the language of their adopted country. But it seems to me some regard must be had for conditions. At first the Spanish was practically the only language spoken in the Territory. A people does not, nor, indeed, do individuals, usually change their speech voluntarily. The acquisition of a new language voluntarily is a refinement of education confined to few individuals as a mere accomplishment. That a whole people should change their language denotes that there was a necessity more or less urgent to do so, or the acquisition is the result of years and often generations of association and intercourse with a people speaking a different language who have become predominant.

As I have said at first, there was no necessity that the Mexicans should learn English; it was easier and more natural for the few Americans to learn Spanish. As the English-speaking people grow in number that language has become predominant, and the use of Spanish is growing every year less and less prevalent in the Territory. As time goes on, the necessity for all of our people, including those of Mexican descent, to speak the English language increases, and before long the English will be practically the only language spoken in Arizona. This process of acquisition by a people of a new language has not been delayed longer in Arizona than has been the rule where like conditions have prevailed. The process is a natural one; its completion in due time is inevitable. The process is accelerated or retarded very much in proportion as the English-speaking population increases or lags. In some localities the Mexicans are fast acquiring the use of English because it has become the predominant language. In others the Spanish is yet the predominant language and the transition is slower, but I am certain not less sure. There are natural conditions, and they can be changed by natural processes, and I can not feel otherwise than that it is unjust to disfranchise our Spanish-speaking people because of the existence of these natural conditions.

The earliest landowners in our valleys, the earliest miners in our hills, the earliest owners of live stock on our ranges were Mexican, speaking only the Spanish language. In those days that language was the predominant language; was the language of trade and social intercourse and they had no use for any other, and had no time to acquire any other, as a mere refinement of education. But they have all along been American citizens.

I do not wish to be misunderstood. I believe that the language of any nation is a national institution; possibly one of the chiefest, and that all who claim the rights of

citizenship of the nation should understand its language. What I do wish to be understood to say is that I think it is unreasonable to require of any people the acquisition of a different national language faster than in the due, ordinary, and natural course; and that to impose the penalty of disfranchisement for not doing so is rather harsh and ungenerous.

But even if it were to be conceded that all our voters should be English speaking and able to read in that language, this bill is open to very grave objections.

The new qualification required is the ability to read the Constitution of the United States in the English language in such a manner as to show that the voter is not being prompted nor reciting from memory.

The law requires the voter to be registered. The registration officer must, in the first instance, be the judge whether or not the proposed voter can read the Constitution in the English language so as to show that he is neither being prompted nor reciting from memory.

This decision by the registering officer is one of opinion and not of facts. I can not conceive how a man can tell as an indisputable fact whether another reads so as to show that he is not reciting from memory. The mere speaking of the printed words can not, as a matter of fact, show whether he is reading or is reciting from memory. The most unbiased and dispassionate judge would not venture, in most cases at least, an opinion. He would not dare to say more than that it appears to him either that the other is reading or that he is reciting. It is mere opinion, incapable of contradiction or demonstration. It would not be difficult for an illiterate person (and illiterate people are noted for quick and retentive memories) to memorize the whole of the Constitution and recite it so as to defy contradiction of the fact that he was reading. On the other hand there are many comparatively well-educated people who can not read without hesitancy, repetition, and faults, especially under the embarrassment and excitement of test, and that the hesitancy, repetition, and fault are not due to defective memory is purely a matter of opinion.

In practice it is not to be supposed that the proposed voter shall read the whole of the Constitution; that would be a tedious process. How easy, then, it would be for the illiterate voter to memorize a particular section under a prearranged plan, and that section be presented to him to read (recite, in fact) by the registering office. I need only suggest the possibilities for fraud under this plan.

This bill provides that a voter may be challenged on the grounds that he can not read the Constitution in such a manner as to show that he is neither being prompted nor reciting from memory. The inspector on the election board must apply the test and the majority of the board decide it. Election boards are always partisan. In the heat of the strife of an election partisanship runs high and the judgments of men are swayed by party spirit. The members of the election board have an intense interest in the result of the election, and they are made the judges upon whose decision may depend the result of the election for or against them. And that judgment is simply an opinion as to whether a man is reading or reciting—an opinion worth little in the most dispassionate moments and wholly worthless or worse in the hot zeal of a fiercely contested political election. An opinion that can be impeached by no rule and from which there is no appeal.

Under this bill men may be disfranchised by the error of judgment of most honest election boards or men may be enfranchised who can not read a word of English or any other language. But how much more dangerous is it that men may be disfranchised by a partisan board's opinion and how wide open the door to the admission of illiterate voters. Under this bill a dominant party could perpetuate itself in power beyond remedy.

We have laws to prevent, as far as that can be done, the admission of fraudulent votes. This bill makes it easy for admission of fraudulent and for the exclusion of honest votes as partisan interest may dictate or suggest.

If we are to have an educational qualification let us have it so formulated that the test can be fairly applied. Under this bill the application of the test under the most dispassionate environment, by the most honest and painstaking men, impelled by no present interest to depart from the plain path of justice and right, is wholly unreliable and therefore inherently vicious and wrong. To disfranchise men because it is the opinion of a registering officer that the voter is speaking the words of a part or of the whole of the Constitution is simply reciting from memory and not reading, is too frail a protection to one of the most estimable rights of American citizens. To permit the right of franchise to depend upon the mere opinion of a majority of an election board, excited by partisan zeal, whose judgments are unstrung by the bitterness of a party contest, without impeachment or possibility of correction, is too dangerous to be regarded with any degree of complacency.

I therefore return this bill without my approval.

JOSEPH H. KIBBEY, Governor.

The question being upon the passage of council bill No. 60, the governor's veto notwithstanding, the bill passed by the following vote:

Ayes: Burns, Finley, Goodrich, Hampton, Morgan, Norton, St. Charles, Weedon, Mr. President—10 (Democrats).

Noes: Breen, Day—2 (Republicans).

Mr. CAMERON. After a few minor changes in the first bill, which the legislators deemed advisable, it was passed the second time. I herewith introduce the governor's second veto of March 10, 1909.

(The paper above referred to is as follows:)

EXECUTIVE DEPARTMENT OF ARIZONA,

OFFICE OF THE GOVERNOR,

Phoenix, Ariz., March 10, 1909.

TO THE COUNCIL: This is the second time a bill of precisely this tenor has been transmitted to me. The first was known as council bill No. 60. This bill is known as council bill No. 123, and is entitled, as was council bill No. 60, a bill for "An act to amend paragraphs 2282, 2284, 2285, 2288, and 2289, chapter 111, title 20, revised statutes of Arizona, 1901, relating to qualifications of electors, and paragraphs 2374 and 2375, Chapter IX, title 20, revised statutes of Arizona, 1901, relating to voting and challenging."

I duly returned council bill No. 60 without my approval, stating my objections to it. I now return this bill to you without my approval.

It is hardly necessary to reiterate the objections which I stated as to council bill No. 60. They are applicable to this bill and are of course presumably known to you, and I regard them as sufficient grounds for my disapproval of the bill.

Since the transmittal of my objections to the council bill No. 60, this proposed law has been the subject of some newspaper comment. It has been sought by some of a partisan press to justify this law by a statement that it is taken from the constitution of the State of Maine.

It seems to have been thought necessary to cite some example of like legislation to escape the imputation of gross injustice proposed to be inflicted by this law by the disfranchisement of a large number of citizens who ever since the organization of the Territory, nearly a half century ago, have had the right to vote. Hence Maine is cited as a respectable precedent for this sort of legislation.

And this naturally enough directs our attention to the provisions of the Maine constitution which are cited as the excuse for this bill.

A casual consideration of the matter discloses a singularly close analogy between the conditions here and in Maine, both past and present.

Maine was once a part of New France, just as Arizona was once a part of New Spain.

Probably the earliest grant of lands in North America by a European sovereign was the grant by the French king of lands which include the territory of the present State of Maine. That grant antedated the Virginia grant by the English king and in subsequent contests between England and France for American possessions the priority of the grant was practically conceded to be the basis of right; but it was claimed that because the earlier French grant had been subsequently annulled by the French king himself, the French lost their prior right to that part at least of New France which embraces Maine.

But even earlier than this Spain had occupied and therefore claimed a vast extent of American territory, including what is now Arizona.

A large part of Maine was early settled by the French, and so a larger part of the early population of Arizona was Spanish.

In Maine these French settlers and their descendants retained their French speech, as have the Spanish settlers and their descendants in Arizona retained their Spanish language as their mode of intercommunication. The like causes operated in the two sections; the one to the French and the other to the Spanish, and like conditions resulted. In Maine no more rapid progress had been made in substitution of the English for the French language than has been made in Arizona of the English for the Spanish. Indeed probably the transition has not been as rapid in Maine as it has been in Arizona.

In 1820, when Maine became a State of the American Union, she had been for one hundred and fifty years subject to English or American institutions; the English language was and had been one of those institutions; yet in 1830 there were more citizens of Maine who spoke French than there are now citizens of Arizona who speak Spanish. In that year (1820), fully aware of these conditions, Maine adopted her first constitution. In that constitution the qualifications of elector were that the voter should be a male citizen of the United States of the age of 21 years and upward, having his residence established in the State and town or plantation for three months

next preceding an election. There are the usual exceptions of insane and other incompetents, and felons. There was no exception because of inability to read in the English language. So far the conditions bear an analogy to those in Arizona.

In 1893 the constitution of Maine was changed. It was then provided that "no person shall have the right to vote or be eligible to office under the constitution of this State who shall not be able to read the constitution in the English language, and write his name: *Provided, however*, That the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be 60 years of age or upward at the time this amendment shall take effect."

Comment is hardly necessary. The people of Maine would not, and did not, disfranchise those who had had theretofore the right to vote. All they sought to do was to require of new voters a knowledge sufficient to be able to read the constitution. But this bill disfranchises hundreds of voters not only of our Mexican citizens, but many possibly of Swedish or Danish descent, or both, of German, Italian, and others. So sensitive were the people of Maine of the rights of its citizens that they would not even attempt to disfranchise men who had attained the age of 60 years, realizing that men of that age are not likely able to acquire a new language. The proposed law of Arizona, however, is so ruthless and harsh that it disfranchises and penalizes citizen for not doing what no other people ever did do—acquire under like circumstances a knowledge of the use of a language not their own native tongue.

The justification of this law can not be found in the provision of the Maine constitution. Those provisions teach exactly a contrary lesson. They condemn rather than warrant the unjust provision of what it has pleased some to call our "educational qualification law."

Hundreds of taxpayers will be disfranchised by this proposed law, citizens of Spanish, German, Scandinavian, and other national descent, for no sufficient reason.

To make operative the provisions of the constitutional amendment the legislature of Maine in the same year (1893) enacted rather elaborate statutory regulations, preserving always and jealously the rights of the voters.

If the framers of the Arizona law had followed the example of Maine throughout, this bill could and would have probably applied to it no other application than that of an "educational qualification law."

The Maine law provides for a registration of voters. In cities or towns of 4,000 or more inhabitants, a board of three is appointed, one by the governor, one by the Republican, and the third by the Democratic party organizations. This board fixes a place and a time for registration; has the power to call witnesses, and makes other provision for dispassionately and honestly and impartially trying the question of the ability of the voter to read. The method removes any possibility of an unjust decision of that question and it must be fairly tried. In towns of less than 4,000 inhabitants certain municipal officers are charged with the duty of registration, with like powers and with like safeguards thrown about the right of suffrage.

Comparison of the system of registration in Maine with that in Arizona makes at once apparent the danger of this bill if it becomes a law. It is wholly unnecessary to point out the differences.

But the framers of this proposed law seem not to be content with the decision of a peripatetic registering officer whose business in the Arizona practice is to drum up voters of his own political party. The voter is required to submit to a further test. He, notwithstanding the registering officer has passed him, must submit to the ordeal of the scrutiny of an election board on election day. He had a right to have reviewed by a court the decision of the registering officer, if it were unjustly and unfairly adverse to him. But even then he is cut off by the provision of this proposed law that he may be challenged upon the ground that he can not read the Constitution of the United States in the English language in such a manner as to show that he is neither prompted nor is reciting from memory. From the decision of a partisan election board he has no appeal. Notwithstanding the registering officer has decided that question in his favor—nay, even though a court may have done so—still, on the day of election, his right can be denied and he is helpless. I confess I can not understand why this was made a cause of challenge upon any theory that this law is in good faith and "educational qualification law."

Presumptively a man whose name is on the great register is a qualified voter; at least if his name is properly on the register. Our statute heretofore has proceeded upon the presumption of the existence at the time of registration of every fact qualifying the voter for registration. If a man has falsely registered, he is to be punished for that.

A disqualification that might have existed at the time of registration and which could not have arisen since registration was not a ground for the challenge of a registered voter until this law proposed a radical change.

Our law requires that a voter shall be over 21 years of age. That he is not 21 years of age is not a ground of challenge.

It requires that he be a citizen of the United States. But that he is not a citizen of the United States is not a ground of challenge. Or that he was not a citizen of Mexico, becoming a citizen of the United States under the treaty of cession, while it is a disqualification, that disqualification is not made by our statute a ground of challenge at the polls.

If the proposed voter is of foreign birth, he must have been naturalized to qualify him to vote. But that such foreigner has not been naturalized is not a ground of challenge.

If he be an idiot or an insane person, he is not qualified to vote, and yet that he is an insane person or an idiot is not a ground of challenge.

The grounds of challenge are those disqualifications which in the nature of things may arise after registration and before the tender of the vote, as:

1. That he is not the person named on the register.
2. That he has not been a resident for a year at the time he offers his vote; he may have lost his residence since registering.
3. That he has not resided in the county for thirty days; he may have lost that residence since registration.
4. That he has before voted that day.
5. That he has been convicted of a felony.
6. That he has made a bet on the result of the election.

If a man can read the Constitution of the United States in English at the time he is registered, it is safe to assume that he may be able to do so a month or six weeks later, at the time of the election.

But under this law he must prove the fact the second time. That, too, before a tribunal that is too apt to be prejudiced or biased by partisan zeal.

The utter confusion and wrong that may result from making this a ground of challenge is apparent.

The average number of voters at each precinct in the Territory is about 100. In many there are as many as four or five hundred. But assuming there to be 100, how easy it is to block the progress of the election for partisan purposes by the application of this law. The polls are open nine hours at the utmost, which is five hundred and forty minutes. It will take the average reader fifteen minutes to read the Constitution, and a partisan board may require the full reading by each challenged voter; and it will not do to say that this is too extreme to anticipate. Just such things have not only been attempted, but done, to the exclusion of honest voters. It would require the challenge of only 36 voters to consume the entire election day, to the exclusion of the voters.

This bill places too much and too dangerous a power in the hands of partisan registering officers and election boards. It makes it possible for them to disfranchise voters against whose qualification there can be no question justly raised. The power is absolute and the temptation great, and there is no remedy for the misuse of the power.

I therefore can not approve this bill.

JOSEPH H. KIBBEY, *Governor.*

Mr. CAMERON. I should like to have embodied in the record, as well—

The CHAIRMAN. Are you putting in, also, the second bill that was passed?

Mr. CAMERON. There is but one bill of record.

The CHAIRMAN. I understand that the second bill was in all particulars what the first one was, with the exception of a few minor changes.

Mr. CAMERON. Precisely. I should also like to put in the record a letter from M. G. Burns, chairman of the Democratic campaign committee, to Hon. Richard E. Sloan, governor of the Territory of Arizona, dated February 8, 1910.

(The above-mentioned paper is as follows:)

TUCSON, ARIZ., *February 8, 1910.*

HON. RICHARD E. SLOAN,
Governor of Arizona, Phoenix, Ariz.

MY DEAR GOVERNOR: Some days since a statement appeared in the public press purporting to be an interview with yourself in which you are quoted as having stated that you had examined the statehood bill as introduced in the United States Senate by Senator Dillingham, and that it met with your entire approval.

In the issue of the Tucson Star of February 8 appears what purports to be a verbatim copy of the bill as introduced in the United States Senate.

A portion of section 15 of this bill as published provides that a qualified elector within the meaning of the section shall be any male citizen of the United States of the age of 21 years, who shall have resided in the Territory six months next preceding the date fixed for the election of delegates to the constitutional convention, and who shall possess, in other respects, the qualifications of an elector as provided by title 20 of the Revised Statutes, August 3, 1901.

The act as published also provides that the great register of the year 1908, with such additional names as may be registered under the provisions of this section, shall constitute the great register for the purpose of the election of delegates to the constitutional convention; and the bill as published further provides that these qualifications shall apply to all voters at all elections for the ratification of the constitution for state officers, members of the state legislature, Representatives in Congress, and all other officers named in the constitution of the proposed state, or in any manner provided in the bill.

It will be seen that the proposed bill ignores the various statutes of this Territory enacted subsequent to the Revised Statutes of 1901, looking to the requirement of a higher grade of intelligence and higher qualifications of voters, and specifically restores the provisions of the Revised Statutes with reference to those matters, as well as prescribing a shorter period of residence for voters even than is provided by the Revised Statutes.

In view of the general tendency of this country toward requiring a high standard of intelligence as a prerequisite to voting at elections, which has found expression in the statutes of many States, and especially in the act prescribing the so-called "educational qualifications," passed by the last territorial legislature, it would seem that the carefully prepared provisions in the Senate bill looking to the doing away of these requirements, as well as shortening the period of residence required from one year to six months, must have escaped your attention in your examination of the proposed statehood bill.

I would therefore appreciate it if you would advise me whether these provisions meet your approval, and whether as chief executive of this Territory you intended by your expressions of approval of the Senate bill to include a statement that you approve the provisions above referred to.

I will be at the Adams Hotel, Phoenix, on February 10, where I shall be pleased to receive your reply.

Yours, very respectfully,

M. C. BURNS,
Chairman Territorial Democratic Campaign Committee.

Mr. CAMERON. I should also like to have appear in the record Governor Sloan's letter of February 11 to Hon. M. G. Burns, chairman of the Democratic campaign committee, Phoenix, Ariz.

The CHAIRMAN. Who is this letter from?

Mr. CAMERON. From Governor Sloan, in reply to Mr. Burns's letter of February 8.

The CHAIRMAN. Mr Burns's letter was addressed to Governor Sloan?

Mr. CAMERON. Yes, sir.

The CHAIRMAN. As chairman of the Democratic campaign committee?

Mr. CAMERON. As chairman of the Democratic campaign committee.

The CHAIRMAN. Very well; that may go in.

(The above-mentioned paper is as follows:)

OFFICE OF THE GOVERNOR,
Phoenix, Ariz., February 11, 1910.

Hon. M. G. BURNS,
Chairman Democratic Campaign Committee, Phoenix, Ariz.

MY DEAR MR. BURNS: I beg to acknowledge receipt of your letter of February 8, and to submit in reply thereto the following somewhat lengthy statement of my attitude with regard to certain provisions of the pending statehood bill you specifically mention.

Permit me, at the outset, to correct the misstatement in the published interview, to which you refer, but which I have not seen, and in which I am quoted as having stated that I had examined the Dillingham bill, and that it met with my entire approval. I have made no such statement in any interview and I must have been misquoted. I had no opportunity to see the bill before leaving Washington as it was not then prepared, and hence I did not know what were its provisions until I received it by mail through the courtesy of Mr. Cameron. I was informed while in Washington, however, that the provisions of the Cameron bill relating to the qualifications of voters at the election of delegates to the constitutional convention, and subsequent elections prior to our admission as a State, would substantially be incorporated into the Senate bill. Permit me, also, to suggest that, contrary to an implication in your letter, it is not in my province as chief executive of the Territory to approve or disapprove of any act of Congress, and my views with relation thereto must, therefore, be that of a citizen of the Territory interested like other citizens in its effect upon the people of the Territory. With this preliminary statement I answer your inquiry by saying with entire frankness, that as a citizen of Arizona, I approve of the Senate bill in shortening the time of residence needed to qualify a voter from one year to six months, and further, approve of the repeal of the territorial act of March 10, 1909, erroneously as I believe, referred to as the educational qualification law. Having thus stated with entire frankness my attitude as to those provisions of the statehood bill, permit me to give my reason for the same.

The territorial act referred to is, in my judgment, to be condemned because it is plainly partisan, unjustly discriminatory, and instead of tending to purify and elevate the electorate is so drawn as to be a ready instrument of fraud in the hands of corrupt or unfair election officers and boards. That the act was partisan in origin and purpose is shown by its history. It was one of the caucus acts of the last legislature, and although it was new legislation, far-reaching in its consequence, it was nevertheless passed with little or no discussion or debate by a strict party vote, and when vetoed by the governor in a message of great force and ability was yet passed over the veto without discussion and by the same vote. The fact that the act was partisan in origin and intent and may result to the advantage of your party and to the disadvantage of mine is no sufficient reason why I, as a broad-minded, patriotic citizen of the Territory, should condemn it if it be good, clean legislation in other regards. On the other hand, unless the act can be defended as a useful and needed amendment to our election laws, the fact that it was intended and does result to the advantage of the Democratic party is no reason why Republicans should withhold just criticism or refrain from expressing their disapproval. Such a course would be cowardly and unworthy of courageous party leadership.

Does the act contain sufficient merit to withstand fair and just criticism aside from its partisan character? It provides in effect as one of the qualifications of an elector that he shall be able to read orally from the Constitution of the United States in English so as to satisfy an election board that in thus reading he is neither prompted nor reciting from memory, and that he shall be able to write his name. It is thus not so much an educational as a racial qualification, for no one will seriously contend that the ability to read orally from the Constitution in English is any just education test, any more than the ability to read orally French or German is any such test. The ability to read and write is generally accepted as a test of intelligence, but the ability to read and write in any particular language is not. I doubt if any advocate of this law would be so disingenuous, not to say dishonest, as to claim that the law is either intended to or does in effect disfranchise any considerable number of voters other than those who speak the Spanish language and whom we ordinarily call Mexicans. This being so, I contend that the act is unjustly discriminatory, racial in its application, and as such is to be condemned. Many good people may be misled as to the act and entertain a mistaken belief based upon insufficient information or prejudice that the demands of good citizenship require the elimination of the Mexican vote. Granted that we would be better off if the venal, ignorant, and purchaseable portion of that vote, as of our entire electorate, could be eliminated, nevertheless I hold it to be unjust and undemocratic to include in this discrimination a large number of

intelligent, respectable, law-abiding, and patriotic men whose ancestors lived here long before any American ever visited the Territory or dreamed that it should become at any time one of the United States, who know no other home or country, who have property and pay taxes, who are rearing families here, and who, by every consideration, are entitled to all the rights and privileges of citizenship. I know many such men in Apache, Navajo, and Pima counties as well as in other communities in the Territory. Having been reared in Spanish-speaking households and in Spanish-speaking communities, and having gone to schools where Spanish alone was taught, their knowledge of English is about such as Americans acquire of Spanish under like circumstances. These men would not attempt to qualify as voters by reading orally in the presence of a critical and possibly hostile audience from the Constitution of the United States. The result is the almost complete disfranchisement of this class of Mexicans. There is in every community and among every race an element unfitted intellectually and morally to exercise the franchise. The effort to restrict this franchise if made should be directed toward the elimination of this element alone. That this is a matter of great difficulty everyone who has given thought to the matter must admit.

It is, however, extremely doubtful if the quality of the Mexican vote will be improved by the enforcement of this law for the very best element among the Mexican population is that which resides on the farms and ranches, and in the country communities, and this is the element which would be eliminated. The objectionable and purchasable element among the Mexicans, as among the Americans, is to be found largely about our towns and cities, and this element, in my judgment, would be able for the most part to qualify in our elections. Now and then a colored man, and now and then an Italian, German, or Bohemian may be disfranchised, but this number, in my judgment, would be insignificant as compared with the almost wholesale disfranchisement of the respectable element of our Mexican population, who, by all the rights of birth, ancestry, identification with the country, and treaty rights as well, have a just claim to consideration in any scheme looking to the curtailment of the privileges of citizenship.

Assuming, which I do not admit, that an educational qualification is a good thing and that manhood suffrage is undesirable, to be consistent and even reasonably fair it should apply alike to men of every race and color. It should be, in truth, an educational qualification, and the means adopted for enforcing it should be adequate, with sufficient safeguards to insure the utmost good faith in its application. No hastily constructed or insufficiently thought out scheme for limiting the franchise ought to be tried. The act in question is, in my judgment, not only unjust in its discrimination against a class of citizens worthy of exercising the franchise and by every right of citizenship and long identification with the country entitled to it, but is so framed as to be the instrument of gross fraud in the hands of men who may choose to exercise it. This was very clearly pointed out in the very able veto message of Governor Kibbey. It leaves the matter, in the first instance, to the discretion of registering officers, who, as we know, will either not exercise it or who will exercise it too often as their partisan judgment may suggest. In the second place, it is left to the discretion of election boards under circumstances which will not admit of any fair determination, even when such boards are disposed to be fair, for the timid and diffident may fail, although really qualified, when their right to vote is challenged and the test is made in the presence of a possibly unfriendly or critical audience. No right of review is provided for in either instance, and their discretion, however unwisely or unfairly exercised, is final. I believe that beyond the question of qualification of the electors the question of honest administration of the election laws is of greater importance. I believe, therefore, it is unwise, even in an honest and sincere effort to elevate the electorate by changing the qualification of electors, to thus open the door for fraud or unfair discrimination on the part of the officers of an election, for I am sure that partisan zeal in too many cases will prompt such officers to take advantage of the easy and comparatively safe opportunity which the law thus affords to perpetrate wrongs against the purity and integrity of the franchise.

I confess I was somewhat surprised by the statement in your letter that "the general tendency of this country is toward acquiring a high standard of intelligence as a prerequisite to voting at elections," and that this "has found expression in the statutes of many States." I think I am very familiar with the subject-matter embraced in this statement and I am aware of no such tendency in so far as legislation of recent origin is concerned. Few of the States have adopted an educational qualification. The States having such statutes are Maine, Connecticut, Louisiana, Massachusetts, Mississippi, and North Carolina. None of these statutes are of recent origin; none of these are so drastic in character as our Arizona statute. As pointed out by Governor Kibbey in his veto message, the provision of the Maine constitution which governs the subject, adopted in 1893, was made to apply only to the future, and specifically

exempted all persons who at the time were voters, or who should be of the age of 60 or more years. The statute of Louisiana exempted from its operation all persons who might own \$300 worth of property assessed in their name, or whose father or grandfather was or had been entitled to vote. The statutes of North Carolina and Mississippi exempted persons whose ancestors were entitled to vote prior to January 1, 1867. The ability to read orally the Constitution of the United States in the English language as applied generally to all persons indiscriminately is the requirement of no other statute than that of Arizona, so far as I am able to ascertain, unless it be that of Connecticut, the text of which I have not had the opportunity to examine. Reviewing the history of legislation on the subject both in this country and abroad, I should say that the tendency is to broaden the franchise rather than to limit it to any particular class. The exception to this, so far as recent legislation is concerned, is found in the laws of certain Southern States where the negro population is excessive, and where the effort is avowedly racial in its object and intended to insure the dominancy of the white race. As the Mexican vote in Arizona does not exceed 10 per cent of the whole and is relatively growing less, it is idle to suggest that Anglo-Saxon supremacy is here in danger even remotely.

I am a sincere believer in the necessity and expediency in a democracy of as near an approach to manhood suffrage as may be practical. The educative value of the franchise is enormous, and on the whole this system has worked well and satisfactorily.

Considering the question as a whole, so much can be said against the act of March 10, 1909, and so little in its favor when the question is viewed as it really is in the light of its history, its purpose, effect, and practical operation, disassociated with assumed considerations of high citizenship and the elevation of our electorate, which, as a matter of fact, by reason of the defects I have pointed out, do not enter into the question, that I have no hesitancy in repeating what I said in the beginning that I favor its repeal and believe that the Senate committee is right in disregarding its provisions in the statehood bill.

With regard to the six months' residence clause which you include in your inquiry, I also state that I see no objection to the time limit in view of the fact that we are a new Territory inviting immigration and basing our hopes for the future upon it. While we do have in some of our mining camps in the Territory a floating population, yet the great bulk of our newcomers are homeseekers who expect to become a part of our permanent population. These persons are vitally concerned in the matter of our constitution and the formation of our state government. They may in six months learn enough of our conditions to qualify them to vote intelligently upon any question which may arise in this formative period concerning our territorial affairs. At any rate it seems to me that they in all likelihood will be as well prepared after six months' residence as they would be after a year's residence. My particular reason, however, for favoring the shortening of the time is that a great many people are coming into the Territory, and have been for some time past, and this immigration will increase rather than decrease in the next few months, and it is only fair and right that these people should have an opportunity to have a voice in our government at this critical time in our history.

I trust that I have sufficiently made clear my position on these two questions. I have written this in no acrimonious or censorious spirit, but with the utmost frankness and in the utmost good faith, believing that a full, fair, and honest discussion of these matters on their merits will justify the position I have taken.

Sincerely, yours,

RICHARD E. SLOAN.

Mr. CAMERON. Now I should like to give my time to Mr. Morrison and Mr. Hubbell, who are here from Arizona.

The CHAIRMAN. They wish to go away, do they?

Mr. CAMERON. Yes; they wish to go away, and I shall be here right along; so I should like to have them make a statement before the committee.

The CHAIRMAN. Very well. Suit yourself as to the order of speakers.

**STATEMENT OF MR. ROBERT E. MORRISON, OF PRESCOTT,
ARIZ.**

The CHAIRMAN. Please state your name.

Mr. MORRISON. Robert E. Morrison. I live in Prescott, Ariz., where I have resided for over twenty-six years. I am a lawyer by profession, and am actively engaged in the practice of law, as I have been for the last twenty years, in that Territory.

There is one feature of what is known as the Beveridge bill to which I should like to address my remarks for a few moments.

The CHAIRMAN. You refer to the bill introduced in the Senate?

Mr. MORRISON. The bill introduced in the Senate; yes, sir. I refer to the provision that the qualifications of electors shall be the same as they were at the time the last Delegate in Congress was elected. That was in the fall of 1908. In March, 1909, the legislature of the Territory of Arizona passed, by a majority of two-thirds over our governor's veto, a bill which incorporated into the qualifications of voters an additional qualification, which had never been on the statute books before. It is this:

And who, not being prevented by physical disability from so doing, is able to read the Constitution of the United States in the English language in such manner as to show he is neither prompted nor reciting from memory, and to write his name.

That qualification required the changing of the registration law, and also the law relating to the carrying on of elections on election day in reference to challenges.

The CHAIRMAN. Address yourself first, please, to the change that that makes in the registration law.

Mr. MORRISON. Yes, sir. Registration in Arizona is carried on in this way, under the law: The recorder of the county is the registering officer; and we have what is called a great register, a large book, that is in his office. A short time before every election the board of supervisors will order a registration. The registering officers in the county are the county recorder, such deputies as he may appoint as deputy registering officers, and justices of the peace. This law provides that before a person can be registered as a voter in a county and have his name go on the great register, where it must be to entitle him to vote, the following things must be done (I read from paragraph 2289, R. S. A. 1901, as amended by the act of March, 1909):

Before anyone applying for registration can be registered, he must make an affidavit in writing before the registering officer, wherein must be stated and shown each and every fact entitling such person to be registered, and also the facts required to be stated on the great register, except the date and number; and no person shall be registered who, not being prevented by physical disability from so doing, is unable to read the Constitution of the United States in the English language in such manner as to show he is neither prompted nor reciting from memory, or unable to write his name.

In other words, any justice of the peace, any registering officer appointed by the county recorder, the county recorder himself—all of these are made the judges, in his discretion, to determine whether or not I am qualified. When I appear before any one of them asking that my name shall go on the great register, he passes judgment on me as to whether or not I am qualified to become an elector of the county, and whether I can read a section of the Constitution in the English language in such a manner as to satisfy this registering officer (whoever he may be) that I can do so. That places it in the

power of a registering officer to disqualify any man from getting his name on the great register; and there is no appeal from that decision of the registering officer.

The CHAIRMAN. Let me get this clear. This provision, then, is not only a provision that he shall be able to do this, but that he shall be able to satisfy this registering officer, whoever he may be, that he is able to do it?

Mr. MORRISON. Yes, sir.

The CHAIRMAN. And if the registering officer says that he is not satisfied as to the man's qualifications, that is conclusive?

Mr. MORRISON. Yes, sir.

The CHAIRMAN. And the man's name is not permitted to go on to the great register so that he can vote?

Mr. MORRISON. That is the fact.

The CHAIRMAN. And from that decision of the registering officer there is no appeal?

Mr. MORRISON. There is no appeal provided by law in any way.

The CHAIRMAN. It is conclusive?

Mr. MORRISON. It is conclusive; yes, sir.

The CHAIRMAN. Do I understand, then, that that puts it in the hands of this one particular man?

Mr. MORRISON. Of this registering officer, yes, sir; belonging to the class I have mentioned. He may be either the county recorder, a deputy appointed by him, or a justice of the peace of the county. Let us say a man does get his name on the great register. Then it is provided, among challenges, that—

The CHAIRMAN. Wait a minute. You have now gotten his name on the register?

Mr. MORRISON. Yes, sir.

The CHAIRMAN. Now you are coming to the time of voting?

Mr. MORRISON. Now I am coming to what happens, or what can happen, on election day. The statute provides, as is usual, that challenges may be offered to any man offering himself to vote at an election. We will say that a man has been successful in getting his name on the great register. The board of election in each election precinct consists of an inspector and two "judges," as we call them, appointed by the board of supervisors of the county. Two members of that election board are appointed from the party that is dominant in the county and one member from the party that cast the next highest vote at the preceding election. The statute provides that when a voter presents himself, notwithstanding the fact that his name has been placed on the great register, he may be challenged. The language is:

The party challenged shall be required to read any section of the Constitution of the United States that may be designated by the inspector, and may be required to write his name; and if, thereupon, a majority of the board shall be satisfied that the challenge is not true, the one challenged shall be permitted to vote; else not.

That places it absolutely in the discretionary power of the majority of the board of inspection on election day, when I present myself, with my name on the great register, to say: "Here, read a section of the Constitution."

The CHAIRMAN. Pardon me, right there. The law says, "the inspector." Who is the inspector?

Mr. MORRISON. The inspector is the judge of election—the one who sits there as the presiding officer of these three.

The CHAIRMAN. Of the three?

Mr. MORRISON. Of the three.

The CHAIRMAN. He is a member of the election board?

Mr. MORRISON. He is simply a member of the board of election.

The CHAIRMAN. So your point is that, first of all, this puts it in his discretion to select any provision of the Constitution that he may see fit?

Mr. MORRISON. Yes, sir.

The CHAIRMAN. And then if a majority of the election board shall say that in their opinion he is not qualified under this provision, he can not vote?

Mr. MORRISON. That is correct; and there is no appeal from that ruling.

The CHAIRMAN. Now, go ahead.

Mr. MORRISON. So that (to make it short) you have to pass the running fire of two different parties before you can get your vote into the ballot box. First comes the registering officer. You must satisfy him that you can read in English the Constitution of the United States, or he does not put your name on the great register. It is discretionary with him to do as he pleases. Next, if you happen to get your name on the great register, a majority of the board of election can disqualify you so that you can not vote, because you do not satisfy them that you are able to read in the English language a section of the Constitution, designated by the inspector of elections, in such a manner as to show that you have not committed it to memory, or that you are not being prompted. So we say it opens the door to frauds of all kinds in elections.

Senator HUGHES. Are not these officers under oath?

Mr. MORRISON. Most assuredly.

Senator HUGHES. Are they a set of men who, in the public eye, are going to deliberately cut men out of their right to vote? Is that the idea, Mr. Morrison? We have a much greater power vested in our boards, and everybody is under oath.

Mr. MORRISON. I am simply showing you the power that is placed in the hands of the registering officers. This qualification, you will see, is a matter that is merely in the mind or the discretion of the registering officer. He can rule one way or the other, and there is no way of catching him up on it. I may read a section from the Constitution in his presence, and he may say: "Oh, well, I am not satisfied;" and he can leave my name off.

Senator HUGHES. Does the law say that it is in his discretion? What does the law say?

Mr. MORRISON. I read it a moment ago. I am reading from paragraph 2289 of the Revised Statutes of the Territory of Arizona, as amended by the act of March, 1909:

Before anyone applying for registration can be registered, he must make an affidavit in writing before the registering officer, wherein must be stated and shown each and every fact entitling such person to be registered, and also the facts required to be stated on the great register, except the date and number; and no person shall be registered who, not being prevented by physical disability from so doing, is unable to read the Constitution of the United States in the English language in such manner as to show he is neither prompted nor reciting from memory, or unable to write his name.

Necessarily, it is the registering officer that must decide that question, because the elector's name goes on the great register at the will of the registering officer. That is the point that I make. It is not a

question of whether a man has resided in the Territory long enough, or anything of that kind, or that he is a citizen of the United States; because he can prove those facts. But it is left discretionary in the mind of a registering officer (who may be a justice of the peace, a county recorder, or a deputy county recorder) to decide whether or not the man's name shall go on the great register, depending upon his decision on the question of whether he can read in English a section of the Constitution. That is the point I am making.

Senator HUGHES. I understand.

Mr. MORRISON. And that is true of the board of election also. Therefore, we say that the law places too much discretionary power in the registering officer and in the members of the board of election, or a majority of them, and that it should not be left in that shape at all. It never was on our statute books until 1909.

The CHAIRMAN. Was it put there in anticipation of statehood?

Mr. MORRISON. I presume so; I do not know.

The CHAIRMAN. I want to ask you another question before you go on to speak of the practical workings of this law: How many citizens of Arizona who have been there a long time, and who are men of substance and family, does this law disfranchise—leaving out the question of any improper conduct of the election officer or the registration officer or the election board? How many does it disfranchise right at the beginning?

Mr. MORRISON. I should say that it absolutely disqualifies from twelve to fifteen hundred voters of our Territory who have lived there for from twenty-five to forty or fifty years.

The CHAIRMAN. I have hurriedly read the veto messages of Governor Kibbey, and the answer of Governor Sloan to Chairman Burns; and in one of those it is stated that it will disfranchise at least 1,800 people.

Mr. MORRISON. Yes, sir; I am simply conservative in my statement. It probably will go as high as that.

Senator HUGHES. Have you any data showing how many voters there are in Arizona who can not read English?

Mr. MORRISON. Mr. Hubbell, who is here and who will follow me, can answer that question better than anyone else, because he is a native and knows about it.

Senator HUGHES. If you have not such data, how do you get your information?

Mr. MORRISON. From my knowledge of the Territory, Senator. I have lived there and campaigned that Territory for the last twenty-five years. In my judgment there are at least 1,500 old Mexican voters, property owners and taxpayers, who would be entirely disqualified by reason of this law.

Senator HUGHES. How many voters are there in the Territory altogether?

Mr. MORRISON. I do not know. The number who voted at the last election was 27,000.

The CHAIRMAN. In the letter of Governor Sloan, or in one of these other papers, the statement is made that these people whom the law would disfranchise are the heads of old Spanish families who have always lived in the Territory, almost all of whom are now men of more than mature years, and whose children of course speak English, although the old folks themselves do not.

Mr. MORRISON. Yes, sir.

The CHAIRMAN. Although they read Spanish. Is that correct?

Mr. MORRISON. That is correct. I know it personally, because I have lived there so long, and know about it.

The CHAIRMAN. They live out in the country, as I understand?

Mr. MORRISON. They live on little farms; they live on their dry ranches, as we call them; they live in little villages away from the centers of population.

The CHAIRMAN. Right there, let me say that it is stated in one of these communications—I do not have it clearly in my mind—that if it could be said that there are any bad elements among the Mexicans, they are to be found in the cities.

Mr. MORRISON. In the cities—just as you find them in the cities in the East.

The CHAIRMAN. And those would not be so likely to be disfranchised as the men who live on ranches in the country.

Mr. MORRISON. Certainly not.

Senator HUGHES. Are these people who can not read the Constitution in English all of one political faith?

Mr. MORRISON. No, sir; I am satisfied that they are not, but that they are divided between the two political parties.

Senator HUGHES. About equally?

Mr. MORRISON. About equally, I should say—yes, sir.

Just one reference to another point. You will remember that the treaty of Guadalupe Hidalgo and that of the Gadsden Purchase provided that all persons living within the domain that came in under the flag by reason of those treaties—"Mexicans," as we call them out there—became citizens of the United States unless, within one year from the signing of the treaty, they declared their intention not to become such. In other words, those people, speaking the Spanish language, became citizens of the United States at the end of that year, although they did not talk a word of English. And to-day in both New Mexico and Arizona there are quite a large number of those very persons who became American citizens by reason of the treaty of Guadalupe Hidalgo who could not talk English, who would be disqualified by this law.

Senator HUGHES. That was sixty years ago?

Mr. MORRISON. Yes, sir.

Senator HUGHES. If they were at least 21 years of age then, they are at least 81 years of age now?

Mr. MORRISON. Yes, sir. There are men living out there in Arizona and in New Mexico to-day that are over 80 years of age—men that are 90 years of age. How long did that condition continue? It continued for years after we took that country under the flag. There were no English schools there. They had Spanish schools among themselves, in their own communities. For years and years and years there was no opportunity whatever for men to acquire an English education, so as to be able to read a section of the Constitution.

The CHAIRMAN. Now please proceed to your explanation of the practical workings of this law in the actual elections.

Mr. MORRISON. There has been no election under the law. It was passed last March, and was passed by more than a two-thirds majority of the legislature, over Governor Kibbey's two vetoes.

The CHAIRMAN. In case the polls were within an hour or two of closing, and a number of voters appeared who had not yet voted, and one ahead of the rest should be challenged and this test applied, what would be the power of this board to put him through an examination that would consume so much time that the others who were waiting to vote could not do so?

Mr. MORRISON. The power would be absolute if the inspector or the judges were not satisfied that the section that was chosen was read properly. Or even if it was read properly, they could ask the man to read some other section of the Constitution, and keep on in that way.

The CHAIRMAN. And they do not have to admit anybody else to vote until they have settled that man's qualifications?

Mr. MORRISON. Certainly not. There is no way that they can do it.

The CHAIRMAN. And they can take as much time as they like in settling his qualifications?

Mr. MORRISON. Absolutely. There is no question at all about it. It would disqualify and disfranchise a great many persons behind this one man that was being challenged.

I want to say another thing: This qualification provision in its present condition, as it reads and as it works out, is almost unheard of in the United States. The Maine law has been compared with the Arizona law. The fact of the matter is that the Maine educational qualification law was not passed until 1893, I believe.

The CHAIRMAN. 1893—that is right.

Mr. MORRISON. But that law provided exceptions. It said that those persons who had been voters previous to that time should not come under the qualification test.

The CHAIRMAN. It also said something about persons 60 years of age or more.

Mr. MORRISON. It provided that men who were over 60 years of age should not be required to come under the educational qualification test. And so it is in other States. In the South, for instance, in one of the States where this educational qualification is in force, or, perhaps, in Connecticut (I would not be certain about that), there is a provision that all people who have \$300 worth of taxable property shall not be required to pass the educational qualification, and so on.

The CHAIRMAN. The Maine law, as I understand it, was passed with the two exceptions you named, to wit: It excluded from its operations everybody who at that time had a right to vote, and all persons over 60 years of age?

Mr. MORRISON. Yes, sir.

The CHAIRMAN. I believe it is part of the Constitution, is it not?

Mr. MORRISON. I think so.

The CHAIRMAN. It was adopted to meet the immigration into Maine of French-speaking Canadians and others who might come there?

Mr. MORRISON. Yes, sir.

Senator HUGHES. This other provision, we are told, was designed to meet the incursions into Arizona of Spanish-speaking Mexicans.

The CHAIRMAN. That is the six-months provision. I am going to ask him about that in a moment.

Senator HUGHES. No; I refer to this provision about speaking English and reading the Constitution. Mr. Smith told us that they did come, but that they were engaged upon railroad work, and that they easily came across the line.

The CHAIRMAN. That was the six-months provision?

Senator HUGHES. No; the one as to reading the Constitution. He said they do not speak any English at all.

The CHAIRMAN. Then let us bunch that matter up in one question. In addition to that, there is a provision in this bill concerning six months' residence?

Senator HUGHES. It is a year, is it not—six months or a year?

The CHAIRMAN. It is six months in this bill.

Senator KEAN. The bill was changed from a year to six months.

The CHAIRMAN. Yes. Now, just a word—

Senator HUGHES. I thought it was just the other way.

The CHAIRMAN. No; I can explain that in a moment. Just a word about that: Is this provision in the bill with reference to six months' residence designed to let in Mexicans across the border to vote on election day?

Mr. MORRISON. No, sir; not at all. It is simply for the purpose of permitting people to vote who are coming in there from the eastern States, from Oklahoma, from Kansas, from Texas, and so on. They are coming in there and have been settling in the last few years in the Salt River Valley and the Gila Valley, because of the development of the irrigation systems under the Roosevelt dam and reservoir, as we call it. They are people who have come out there and have put in their money, and are helping to build up the country. They are citizens of the United States in every other place; and if you put in a year restriction, as it stands now, it would disqualify a great many of them.

The CHAIRMAN. Do they intend to stay there and be citizens of Arizona?

Mr. MORRISON. There is no question about it. They have bought their property. The language of the bill as offered in the Senate is, "Six months prior to the date fixed for the holding of the election for the election of delegates to the constitutional convention." Under this bill, and even under the Hamilton bill, the election of delegates to the constitutional convention can not occur until about the 1st of July; and six months prior to that would be the 1st of January of this year.

Senator HUGHES. That could not apply to these people who have settled in there and have been there for the number of years you have mentioned, then. It is the new people?

Mr. MORRISON. The new people that have come in. During the last year, 1909, they have come in there by the dozens. The six months' limitation would merely disqualify those that came in after the 1st of January of this year.

Senator HUGHES. It is a question as to whether you should require a year's residence, or six months?

Mr. MORRISON. That is all. We think it should be six months, because the other requirement would cut out a great many people who have come to our Territory in the year 1909, because of their want of residence of a year in the Territory. Anyone who is familiar with the irrigation development down there during the last year, 1909, knows

that dozens of American families came during the last six months of the year 1909. That is the point that I wish to make. But so far as concerns people coming across the line from Mexico, they must be citizens of the United States. They have to pass through the test of the federal courts before they can possibly get citizenship papers.

Senator HUGHES. Not if the board will be dishonest enough to stop a whole election, and cast out one or two hundred people through a pretense. The same men will do the registering; will they not? Are they going to turn honest when it comes to registering, and be corrupt only when it comes to voting?

The CHAIRMAN. No, Senator Hughes; as I understand the point, those who come across from Mexico have first got to be naturalized.

Senator HUGHES. No, they do not—not if the registration officials act fraudulently.

Mr. MORRISON. Oh, of course, when it comes to a question of that kind, that is true; but a man has to have his name on the great register before the election day.

Senator HUGHES. But can it not be put on fraudulently by these same men? Who makes up the great register?

Mr. MORRISON. The county recorder of the county is the man who does it, and he appoints deputy recorders and justices of the peace. They constitute the registering officers.

Senator HUGHES. Is there anything down there to prevent them from fraudulently putting these names upon the great register, and at the same time induce these boards, composed of men of different politics, at an election held openly, to act honestly?

Mr. MORRISON. There is this difference: The other qualifications that are required by our election law must be set forth in an affidavit and committed to writing and delivered to the deputy recorder or the registering officer; and he must turn in all of those affidavits. The disqualification that we are speaking of now is not contained in the affidavit at all, Mr. Senator. It is merely in the mind of the registering officer.

Senator HUGHES. But it a matter of record. It is an open thing. Everybody can see it. You are there. You have an opportunity to inspect it. You can make complaint. The officers are responsible under the law if they hold it up.

Mr. MORRISON. Yes; but the way it is done is this——

Senator HUGHES. You are predicting how it will be done. There has never yet been an election under it. You are guessing, now, that the conduct of the election will be crooked. You are suggesting how a fraud may be accomplished, and you predict that it will be.

The CHAIRMAN. He says it may be.

Senator HUGHES. He goes further, and says it will be.

Mr. MORRISON. I say it leaves the door open for the committing of frauds in that way.

Senator HUGHES. Yes; that is it.

Mr. MORRISON. I want to say this in reference to Arizona—and I speak from an experience of twenty-five years in active politics there: In no place in the United States do we have purer or more honest elections than in the Territory of Arizona. We have the Australian system of balloting, and there never has been any fraud to speak of in our elections down there.

The CHAIRMAN. If that is true, what was the excuse for passing this act all of a sudden?

Mr. MORRISON. If you wish my idea of it, I think I can speak by the card. I believe it was for the purpose of disqualifying hundreds of Mexican voters in the Territory of Arizona who have lived there for the last twenty to thirty years.

Senator HUGHES. But you said a moment ago that the men who would be subject to that disqualification were equally divided politically. Of what advantage would it be to cast out 1,500 votes equally divided between the parties—750 Democratic and 750 Republican votes?

Mr. MORRISON. I can not say, except in this: (If you want to talk politics a little, all right.)

Senator HUGHES. That is what you are talking, I take it.

Mr. MORRISON. Well, yes; to a great extent.

Senator HUGHES. You have spoken of having twenty-five years' experience in practical politics.

Mr. MORRISON. Most assuredly; but I wish to say, also, that I stand here as a representative of the people of Arizona, and without any desire to interfere with the rights of any of the people. We are satisfied, and, in fact, we know, that this will disqualify at least 1,000 voters who are, we believe, entitled under the laws of Arizona and of the courts to vote out there. I refer to the so-called Mexican voters.

The CHAIRMAN. It will disqualify them before they even get to the registration officer?

Mr. MORRISON. Yes, sir; they will not get there at all.

Senator HUGHES. That is, they do not possess the necessary educational qualifications?

Mr. MORRISON. That is it.

The CHAIRMAN. No.

Senator HUGHES. That is what he says.

The CHAIRMAN. They do not possess the qualification named in this bill.

Senator HUGHES. That is the educational qualification of this bill.

The CHAIRMAN. That is the so-called educational qualification?

Senator HUGHES. Yes. The others, if they are disfranchised, must be disfranchised by fraudulent manipulation by officials, in violation of their oath and of the law?

Mr. MORRISON. No, Senator; hardly.

The CHAIRMAN. As a result of their opinion.

Mr. MORRISON. Their opinion—their mind; that is all.

Senator HUGHES. If it is not a conscious act for the purposes you have stated, then it is not a fraud. If it is a conscious delay or a conscious rejection of somebody who is entitled to vote, then it is a fraud, and it is a violation of law.

The CHAIRMAN. Does not this law give the opportunity to do those things, to exclude men from voting, etc., by saying, "I am not satisfied," from which there is no appeal?

Mr. MORRISON. Yes, sir; that is the point. That is the situation exactly.

Senator HUGHES. Of course I do not want to enter into a discussion of that question. I think there is an appeal under the law of Arizona, and I think there is a criminal procedure if they should combine to do that.

Mr. MORRISON. But how can you prove it?

Senator HUGHES. If you can not prove it, how are you to know it?

Mr. MORRISON. Well, of course we know that there are——

Senator HUGHES. You know they are crooked, and yet you can not prove that they are crooked?

Mr. MORRISON. That frequently happens; there is no question about that, Senator.

Senator HUGHES. I should be very slow to condemn a whole people on the assumption of crookedness.

Mr. MORRISON. Understand, I am not condemning any person living in Arizona—any registering officer, or any county recorder. I do say that the law throws the door wide open to the exercise of a mental discretion which can not be seen, or can not be put in writing. You place it in the power of the registering officer, if I go before him, to say: "Why, you can not read the Constitution." A justice of the peace out in a country precinct can say: "No, I am not satisfied with your reading of it;" and my name does not go on the great register.

The CHAIRMAN. And if a man does not get his name on the great register he can not vote?

Mr. MORRISON. He can not vote; absolutely not.

Senator HUGHES. That is the registration?

Mr. MORRISON. That is the registration; yes, sir.

The CHAIRMAN. So at the beginning of the whole thing the power to vote, which depends upon getting on the register, is in the hands not of a board, but of one man?

Mr. MORRISON. Of one man, the registering officer—an officer who is appointed by a county recorder, for instance, or a justice of the peace, elected by the people.

The CHAIRMAN. From whom there is no appeal?

Mr. MORRISON. No. A registering officer goes out, Mr. Senator, having received his appointment from the county recorder, and he goes through the county. He has the power to register people. He travels from one house to another and from one farm to another, and he meets people on the road. He knows who they are. He knows, possibly, how they will vote, or something of the kind. Nobody is present to prove any act against him, so far as his mental discretion is concerned and its exercise by him. It is almost unheard of anywhere in the law to see such discretionary power placed in the hands of a registering officer, be he intelligent or be he ignorant. We have never had it before.

Senator HUGHES. Then how can you ever have an educational test at all?

Mr. MORRISON. You can have an educational test by providing that a man shall go before a registering board.

Senator HUGHES. By that you simply increase the number; but it is still a mental process?

Mr. MORRISON. It is still a mental process; that is true.

Senator HUGHES. You have no record of it?

Mr. MORRISON. In our case, Mr. Senator, the facts are these: As I say, we have at least from twelve to fifteen hundred Mexicans who in all probability are not qualified to read a section of the Constitution in English.

Senator HUGHES. Yes; I understand that part of it. They are out honestly, because they do not have the necessary qualifications. It is not a trick to cut them out. That is, I mean, they are not cut out by the trick of the registering officer.

The CHAIRMAN. No; they would be cut out by the trick of the law, provided it is a trick.

Senator HUGHES. I am not prepared to concede that it is a trick to require a man to be able to read in order to vote.

The CHAIRMAN. Let us waive that, one way or the other. The fact is that this law does absolutely exclude those people.

Senator HUGHES. Yes; but I say that is not a fraud in the use of the law. That is the law.

The CHAIRMAN. That is the fraud in the law itself, if it be passed for that purpose.

Senator HUGHES. That is true.

The CHAIRMAN. Now, go ahead.

Senator HUGHES. The other is a question of a fraudulent use of the law to keep out those that are entitled to vote under the law.

Mr. MORRISON. Yes.

The CHAIRMAN. There are two classes who are kept out. One class is kept out by the action of law itself, assuming it to be passed for that purpose.

Senator HUGHES. And Mr. Morrison's objection is that the registering officer says, "I am not satisfied, and I will not let the man register because I do not believe he is capable of reading."

The CHAIRMAN. That is the second branch of it. There are two branches. That is one part of the fraudulent operation.

Senator HUGHES. That is the registering officer. In the other case the man would have to concede that he was not qualified, if he was honest.

The CHAIRMAN. Yes; under the law.

Mr. MORRISON. It is this way: These people live among themselves. Of course they are not proficient in English. There comes in the element of a feeling of timidity if they are asked to read publicly a section of the Constitution. Take even an American who is living on the range, a cowboy, who may not be familiar even with reading the newspapers, and put him up against that proposition, and where will you come out, Mr. Senator? You have lived in Colorado; you have lived in the West, and you know how difficult it would be.

Senator HUGHES. My observation is that the cowboys are pretty well able to read, and are not afraid of anything.

Mr. MORRISON. Not under these conditions, though—in the presence of an election board and on election day.

Senator HUGHES. But this is not that case. This is the lone registration official that they meet out on the road.

The CHAIRMAN. That is the registration part of it.

Mr. MORRISON. That is one feature of it. But the other test is made before the election board on election day, when the crowd is there, and the man comes in from the range who can read English. He is a native American; and he is asked to read a section of the Constitution. How many of them could do it?

The CHAIRMAN. I think they could do it; but let us ask you this: Do not go out on the range; take a case right in the city—the case of a pretty well educated man of rather shrinking and timid disposition. Suppose he should be asked suddenly to read a section of the Constitution?

Mr. MORRISON. Yes; that is it.

The CHAIRMAN. The election officer would say: "It does not look to me as though you are reading that; it looks to me as though you are repeating it by rote, and by having been prompted," and would reject him.

Mr. MORRISON. That is all there is to it. It leaves an awful power that could be exercised for evil; and if you can close the door to that kind of a condition, I say, close it. And you can close it by cutting out this qualification.

(The committee thereupon took a recess until 2 o'clock p. m.)

AFTER RECESS.

STATEMENT OF MR. ROBERT E. MORRISON—Continued.

Mr. MORRISON. So far as the educational qualification is concerned, I have said practically all that I desired to say. The essence of the whole thing is this: It will, without question, disfranchise from one thousand to twelve hundred reputable citizens of our county who heretofore have resided there during all of these years, and are taxpayers, and are good people. In my statement of the number that will be disqualified I want to be within the bounds of conservatism; and my estimate is probably below the estimates of others who are, perhaps, better qualified to judge of the number.

The point has been made that the law is on the statute books, and therefore should be taken as it is. One of the answers to that is that if a law works an injustice and is wrong, especially where it has been passed by a territorial legislature, Congress having the power and the right to disapprove any act of a territorial legislature, it becomes the duty of Congress to annul or to disapprove such an act. We have requested that that be done here.

The CHAIRMAN. What would you say, in the case of a bill to provide for the admission of a State, the ratification of the Constitution, and the election of Representatives in Congress, and a legislature which shall elect two Senators, etc., as to the duty of Congress to examine into the election laws and take that which might be fairest? I understood you to say that what the people down there desire is that the election shall take place under the law (plus the condition as to six months' residence) that has governed the election of your Representatives for how long? I refer to the former law.

Mr. MORRISON. Yes, sir. The law as it stood prior to March, 1909, has been in force for the last ten or twelve years.

The CHAIRMAN. Why was this law passed, then? Was it in anticipation of statehood?

Mr. MORRISON. It was, I believe, in anticipation of statehood, and because of this fact: The legislature was overwhelmingly Democratic. Mr. Ralph Cameron, at the same election at which these members of the legislature were elected, was successful in being elected a Republican Delegate to Congress from Arizona—the first one in twenty years, with the exception of Mr. Murphy in 1894. He was elected to a great extent by reason of the fact that a majority of this vote that it is now sought to disfranchise went to him.

The CHAIRMAN. Mr. Cameron, you say, is a Republican?

Mr. MORRISON. He is a Republican.

The CHAIRMAN. I understand the fact to be, then, that the popular vote elected Mr. Cameron a Delegate to Congress?

Mr. MORRISON. Yes, sir.

The CHAIRMAN. And at the same time the legislature itself was overwhelmingly Democratic?

Mr. MORRISON. Yes, sir. Just there, Mr. Senator——

The CHAIRMAN. Was this law passed by a partisan vote?

Mr. MORRISON. Intensely and absolutely so. In the council it was passed by a vote of 10 to 2; 10 being Democrats and 2 being Republicans. In the house it was passed by a straight party vote—17 Democrats and 7 Republicans. A change of 200 votes, however, would have made the legislature Republican.

The CHAIRMAN. Was it passed under suspension of the rules?

Mr. MORRISON. The fact is that this matter did not come up in the discussion of any issues in the election preceding the holding of this session of the legislature; that it was not thought of and was not discussed in any way; that the bills were introduced in the legislature and were passed without printing, under suspension of the rules.

The CHAIRMAN. Without printing?

Mr. MORRISON. Without being printed.

The CHAIRMAN. Do you mean by that that this bill was introduced in a written or typewritten form?

Mr. MORRISON. Yes, sir.

The CHAIRMAN. And was passed under suspension of the rules before they had time to print it?

Mr. MORRISON. They did not print it.

The CHAIRMAN. Was there any debate?

Mr. MORRISON. There was no debate.

The CHAIRMAN. Go on.

Mr. MORRISON. That is the exact record of the thing. Governor Kibbey, being a Republican and one of the best-advised men as to conditions in the Territory, vetoed the bill. It was sent back to the legislature and was passed over his veto by the same vote, as I have heretofore mentioned.

The CHAIRMAN. My recollection is that in his two veto messages he vetoes it upon the grounds of justice, regardless of any political considerations.

Mr. MORRISON. Oh, without question—without question. If this were merely a political matter, I would not be here to-day asking that this qualification should not be considered.

The CHAIRMAN. Proceed.

Mr. MORRISON. If there are any other questions, I shall be glad to answer them now.

The CHAIRMAN. Yes; there are some other questions on other phases of the bill.

Mr. MORRISON. All right.

The CHAIRMAN. The bill which we call the Senate bill (the bill introduced in the Senate) throws exceedingly careful restrictions about the disposition of any public lands which the United States appropriates for any purpose in these two Territories. You are familiar with the bill. What is the fact as to your approval or disapproval of the restrictions thus thrown around those lands?

Mr. MORRISON. I approve them absolutely. I believe in every restriction being placed around the disposition of public lands that will prevent them from being sold or disposed of in large areas.

The CHAIRMAN. I understand, then, that you approve the restrictions of this bill?

Mr. MORRISON. Yes, sir.

The CHAIRMAN. The bill also provides very carefully for a separation of the election for the ratification of the constitution and the election for the choosing of the state and other officers thereunder, so that the two shall be sufficiently separated that the people will have in mind only one at a time. It is also provided that after the constitution is framed it shall be submitted to the President and Congress in the manner that you have read in the bill. What have you to say as to your approval or disapproval of that?

Mr. MORRISON. Personally, I approve it; and I believe the majority of the people of Arizona approve of that separation. It keeps away from politics the adoption or rejection of the constitution.

The CHAIRMAN. If you have nothing else to say, we will hear the next speaker.

Mr. MORRISON. That is all.

STATEMENT OF MR. J. L. HUBBELL, OF GANADO, ARIZ.

The CHAIRMAN. Please state your name and residence.

Mr. HUBBELL. My name is J. L. Hubbell; my residence is Ganado, Ariz.

The CHAIRMAN. How long have you lived in the Territory of Arizona?

Mr. HUBBELL. Since 1872.

The CHAIRMAN. You may proceed and make any statement that you desire to the committee.

Mr. HUBBELL. I appear before you here in behalf of the Mexican people of the Territory of Arizona. They have requested me to appear, as having had considerable experience among them and knowing thoroughly their condition.

The CHAIRMAN. What is your business?

Mr. HUBBELL. I am an Indian trader on the Navaho Reservation.

The CHAIRMAN. You may state in what, if any, public capacities you have served the people of the Territory.

Mr. HUBBELL. I was formerly a member of the council.

The CHAIRMAN. By "the council," you mean the body that corresponds to the Senate here?

Mr. HUBBELL. Yes, sir; and I have been sheriff of the county of Apache.

The CHAIRMAN. Proceed in your own way.

Mr. HUBBELL. Whatever we may say about the nonpartisan feature of this bill, in my candid opinion, it is wrong. It is not correct. It has, in my opinion, been a partisan measure of the worst kind.

There are several reasons why the educational-qualification part of the bill should not be approved by Congress. The most potent ones are nonpartisan. In the county where I live, and throughout the Territory, there are men of Spanish origin who, by the treaty of Guadalupe Hidalgo and the Gadsden treaty, were admitted as citizens of the United States, practically by adoption. They are the owners of property in our county, and the biggest taxpayers. They are men who raise families and live in their own homes, paying no

rents, and owning the property upon which they live. They are holders of stock in banks, etc.

Unfortunately, the public-school system of our county has not been very good. The moneys appropriated for the country districts are very small; the schools are held only four or five months of the year, sometimes less, and sometimes for six months. The facilities for acquiring the English language have been very meager. It is unjustly demanded of those people that they should have learned by this time to speak and write the English language. As a rule, in our county, out of three hundred and some voters two hundred and fifty or more vote the Republican ticket. This fact has raised a feeling of antagonism in different sections of the county. It has created throughout the Territory a feeling that Apache County sends the only sure Republican members to the council and house at every election; and it is my candid opinion, without mincing matters in any way, that the Democrats of the Territory felt that there should be some means of curtailing the influence of our county in territorial affairs. During the campaign which resulted in the nomination of Mr. Cameron I believed that with a proper presentation of Republican principles to the Republicans throughout the Territory (the Mexicans) we could elect our Delegate to Congress, which we did.

Laying aside all political questions, there are other potent reasons for the disapproving of this educational-qualification law. In our county, as I say, the persons whom it would disfranchise are the owners of property, sheep, and cattle, and are the biggest taxpayers of the county.

The CHAIRMAN. What kind of citizens are they?

Mr. HUBBELL. Mexicans, as a rule.

The CHAIRMAN. That is to say, they are citizens of Spanish descent?

Mr. HUBBELL. Spanish descent; yes, sir.

The CHAIRMAN. But what character of citizens are they?

Mr. HUBBELL. They are law-abiding citizens. We can prove that by the courts. There are very few cases of any kind against them. They are not men that have come over the border, as our friends have said. They are men who have been residents of the Territory for years, and who, you might say, are "to the manor born." They were born right there, and were there before we acquired the Territory.

The CHAIRMAN. These men above a certain age have not acquired the English language, you say; but what about their children?

Mr. HUBBELL. During the last ten or twelve years, or perhaps more, a fairly large number of their children have acquired the English language. The majority of the young men between 18 and 21 really understand and write the English language.

The CHAIRMAN. That is, a majority of the children?

Mr. HUBBELL. A majority of the children; yes, sir. But in the case of the men from 30 to 35 and 40 years of age, practically none of them can read and write the English language. Out of the 350 voters there, this bill would disfranchise fully 250.

The CHAIRMAN. In that county alone?

Mr. HUBBELL. In that county alone.

The CHAIRMAN. What would you say as to the disfranchisement of men above 45 and 50, of the character of whom you spoke?

Mr. HUBBELL. They are the ones that have acquired the property. They are the ones that are wealthy people there.

The CHAIRMAN. You say there are about 300 of them in your county. About how many of them are there in the whole Territory?

Mr. HUBBELL. There should not be less than eighteen hundred voters. I can estimate them by counties. For instance, in Apache County there are 350 of Spanish origin. There are about one hundred and fifty in Navajo County. I have made a careful estimate of this. There are not less than one hundred in Coconino County. There are one hundred or so in Yavapai County. There are three or four hundred in Maricopa County. There are not less than six hundred in Pima County. In Pinal County there are about one hundred, or perhaps one hundred and fifty, possibly more. In Graham County there are three or four hundred, I should say not less than three or four hundred. In the case of Gila County I am not prepared to say as to the number, because I do not know. But that is my estimate of the number of Spanish-American voters there.

The CHAIRMAN. And all told there are not less than eighteen hundred?

Mr. HUBBELL. Not less than eighteen hundred.

Reference has been made to the voting of Mexicans that come over the border. I have no way of knowing whether they vote in any of the southern counties or not; but I do know that the railroad imports them into our county, and they are the section men in that part of the county. There may be thirty, or forty, or fifty, or perhaps more, in the sections, working for the Atchison, Topeka and Santa Fe Railroad. Not one of them has ever attempted either to become a citizen or to vote in that county. I can not say anything about what they do in the other counties.

The CHAIRMAN. In order to become citizens they would have to be naturalized, would they not?

Mr. HUBBELL. Yes, sir.

As far as our elections are concerned, I believe they are the fairest elections of that character anywhere in the United States. There is no attempt to defraud. I do not wish to charge the Democratic party or any other party with attempts at fraud. For years and years past there has not been a question of the legality of our elections.

The CHAIRMAN. You say this election law was not spoken of during the campaign? Oh, it was Mr. Morrison, I believe, who said that.

Mr. HUBBELL. No, sir; it was not spoken of at all. It came like a clap of thunder.

The CHAIRMAN. Passing from the first point—to wit, the number of people who would be disfranchised in any event, regardless of the misuse of the law, either by the registration officer or the election board—and coming to the second portion, which is the possibility of misuse of the law by the registration officer; what have you to say about that?

Mr. HUBBELL. It simply places the power in their hands to do just as they see fit. I do not see how you are going to restrain them from it. There is no appeal to a court, or to a court and jury, or anything else.

The CHAIRMAN. Did you hear Mr. Morrison's statement this morning?

Mr. HUBBELL. I believe I did.

The CHAIRMAN. What do you say as to your agreeing or disagreeing with that?

Mr. HUBBELL. I agree entirely with Mr. Morrison upon that question.

The CHAIRMAN. As to what can occur under this law?

Mr. HUBBELL. Yes, sir.

The CHAIRMAN. First, when it comes to the question of registration; and, second, when it comes to the question of election?

Mr. HUBBELL. Yes, sir.

The CHAIRMAN. After they have been registered?

Mr. HUBBELL. Yes, sir.

The CHAIRMAN. I want to ask you, before I forget it, the same question I asked others: You have read the bill which has been presented in the Senate?

Mr. HUBBELL. Yes, sir. I wish to say something else in regard to it.

The CHAIRMAN. Just a moment, and then you can go on. I do not want to forget this. What have you to say as to the restrictions which this bill throws about the disposition of public lands that may be appropriated?

Mr. HUBBELL. They are entirely satisfactory.

The CHAIRMAN. What have you to say about the separation of the election for the ratification of the constitution and its submission to the President and Congress, and then the election for officers after all that?

Mr. HUBBELL. That is entirely satisfactory to us. There is a proposed amendment to the bill, in addition to the one annulling the educational qualification, offered by Senator Dillingham. I believe that amendment would be just.

The CHAIRMAN. This is on the election law?

Mr. HUBBELL. Yes, sir. If it is desired to take this matter out of the hands of partisan politics and to preserve the rights of those people for a certain number of years, so that they would have no coercion either on the Republican or on the Democratic side, I believe that amendment would be a wise one and ought to be added to the bill.

The CHAIRMAN. What amendment?

Mr. HUBBELL. Senator Dillingham presented it here and handed it to you, I believe.

The CHAIRMAN. I do not recall it.

Mr. HUBBELL. It is there; it ought to be there.

The CHAIRMAN. At all events, we will consider it when we go into executive session, after the hearings are over.

Mr. HUBBELL. It would restrict for thirty years the right of the legislature to pass any act restricting the right to vote of Spanish-American descendants. That would leave the Mexicans to vote the Democratic ticket, if they wished, without coercion or fear of getting the Democrats down on them; or, if they are Republicans, without getting the Republicans down on them. In other words, they would not be in the position of being "condemned if they do and condemned if they don't."

The CHAIRMAN. That was the suggestion made, I believe, by Senator Dillingham in the former hearings.

Mr. HUBBELL. Yes, sir.

I believe that is all I desire to say in regard to the educational qualification law. There is another matter which I desire to speak about.

The CHAIRMAN. Go ahead.

Mr. HUBBELL. It is in regard to the Indians. The Indians of the Territory of Arizona are disqualified by law from intermarrying with whites.

The CHAIRMAN. By this law?

Mr. HUBBELL. By law in the Territory of Arizona. Not only that, but if they marry in any other Territory, when they come back to Arizona, as I understand the law, the marriage becomes null and void. I believe that is a very short-sighted policy on the part of our legislature. Senator Dillingham also presented that matter here, I believe.

The CHAIRMAN. Yes; he did.

Mr. HUBBELL. He presented that matter with the other one. I believe that provision should be disapproved. The Indians are being educated. They are receiving quite a good education, and they are progressing. There are lots of people, both Americans and Mexicans, that decide to intermarry with them. They come from Oklahoma and other States, and I do not think their rights should be curtailed if they should decide to intermarry.

That, I believe, is all I have to say on the subject, gentlemen.

The CHAIRMAN. Very well. Does anyone else here wish to be heard?

(No other persons desiring to make statements at this time, the committee adjourned.)

FRIDAY, FEBRUARY 25, 1910.

COMMITTEE ON TERRITORIES,
UNITED STATES SENATE,
Washington, D. C., Friday, February 25, 1910.

The committee met at 11 o'clock a. m.

Present: Senators Beveridge (chairman), Dillingham, Burnham, Kean, Dick, Piles, and Hughes.

Hon. Ralph H. Cameron, Mr. Robert E. Morrison, and Mr. J. L. Hubbell appeared.

**CONTINUATION OF STATEMENT OF HON. RALPH H. CAMERON,
DELEGATE FROM THE TERRITORY OF ARIZONA.**

The CHAIRMAN. Mr. Cameron appeared the other day, and said that he wanted to submit some remarks to the committee later. You may proceed in your own way now, Mr. Cameron. I suppose the first subjects you wish to take up are the bond matter and the election matter you were discussing the other day.

Mr. CAMERON. Mr. Chairman, I should like first, if you have no objection, to take up the bill, as I have gone over it thoroughly and have the paragraphs marked. It will only take a few minutes. Then we will get down to the land question, and then perhaps we can more thoroughly take up the bond issue, or the amount of land that we are to receive for the indebtedness of the Territory as a whole.

The CHAIRMAN. Use your own order, just as you see fit. The part of the bill relating to Arizona begins on page 28.

Mr. CAMERON. On page 28, in line 21, I should like to have inserted, after the word "Statutes," the words "of Arizona."

The CHAIRMAN. That plainly ought to go in. That fixes it.

Mr. CAMERON. On page 28, in line 24, after the word "board," insert "of supervisors." That is the term by which they are known out there.

The CHAIRMAN. That is a technical matter. That is correct.

Mr. CAMERON. I thought I would correct these matters. It will only take a few minutes.

On page 29, line 12, strike out the word "said," and insert, after the word "three," the words "of said."

The CHAIRMAN. So that it will read on line 12 "and be governed by the provisions of chapter three of said title twenty, Revised Statutes of Arizona," instead of "by the provisions of said chapter three." That is better. It is merely a matter of verbiage.

Mr. CAMERON. On page 29, line 15, after the word "elections," insert "for the election of delegates to the constitutional convention." It is left out, you see.

The CHAIRMAN. That is right—"for the election of delegates to the constitutional convention."

Mr. CAMERON. Is that agreed to, Mr. Chairman?

The CHAIRMAN. Yes; that is right.

Mr. CAMERON. It makes it clear; that is all.

The CHAIRMAN. Then you ought to put in the word "and"—"all voters at all elections for the election of delegates to the constitutional convention and for the ratification of the constitution."

Mr. CAMERON. Yes; that is right. Add the word "and" there.

The CHAIRMAN. "And for the," etc.

Mr. CAMERON. Yes.

The CHAIRMAN. Go ahead.

Mr. CAMERON. On page 29, in line 25, after the word "proclamation," strike out the words "not earlier than ninety days" and insert "within sixty days."

The CHAIRMAN. I should be against that. If you say "not earlier than sixty days," that might be all right; but if it reads "within sixty," it is open to this objection: You have an enormous territory down there, and what you want is to get the thing done right. When you get it done, you want it done right.

Mr. CAMERON. The idea was to avoid holding the election in the extremely hot weather that we have in the southern part of the Territory in the summer months; and this is the way we figured it out. We believe this will obviate the objection to the extreme heat that we would have to go through in time of election, when a great many of our people have gone to the coast and elsewhere to avoid the summer heat.

The CHAIRMAN. When would they be back?

Mr. CAMERON. They generally do not return to the Territory before the 15th of September. Some of them return the 1st of September.

The CHAIRMAN. Personally, Mr. Cameron, I hold this view—and I speak merely because I went over the matter pretty carefully: If you say "within sixty days," that would mean that you could do it

at any time within the sixty days. That might work very well in a more limited territory. But suppose, now, you are impatient to get the election over, and it is called within too brief a time: You simply can not get the word out, and get the election machinery going or the whole thing going, in any proper way for any fair and properly informed election. So long as a man like Governor Sloan (who is a very conservative man) is there, that might be all right. But that might not always be the case. Whatever is done here might also be done with reference to New Mexico. I suppose it is immaterial to the committee; but it would be far better for you folks to wait even two months longer, and hold the election after the hot weather, so that your people will all be there, than to call the election off all of a sudden.

Mr. CAMERON. That is not the disposition; but how would it do to word it in this manner—to say that the election should be called not earlier than sixty days and not longer than ninety days?

The CHAIRMAN. Not earlier than sixty and not longer than ninety days?

Mr. CAMERON. Yes.

The CHAIRMAN. I am perfectly willing to agree to that, so far as I am concerned.

Senator HUGHES. Of course, Mr. Chairman, you must bear in mind that while the territory is great, the means of communication out there is pretty rapid. They can hold an election there just as quickly as it can be held in Rhode Island.

The CHAIRMAN. They can not in New Mexico.

Senator HUGHES. They can in Arizona.

The CHAIRMAN. Nor can they in Arizona, I think. I believe the Delegate will tell you so.

Senator HUGHES. You simply mail the papers for the election.

The CHAIRMAN. Yes; but, you see, a great many of these voters live out on their ranches, a good distance away.

Senator HUGHES. We have that condition, too; but we have small voting precincts, and they are localized.

The CHAIRMAN. The question is to get the whole machinery in motion. It is new machinery, too.

Senator HUGHES. And they have telephones, too. There is hardly a farmer in our country who does not have a telephone.

Mr. CAMERON. I think this matter would be rectified if you would make it not earlier than sixty days nor more than ninety days.

The CHAIRMAN. I see no objection to that.

Senator PILES. What page are you on?

The CHAIRMAN. The bottom of page 29. If that is agreeable to the committee, it is proposed to strike out, after the word "proclamation," "not earlier than ninety days" and insert "not earlier than sixty nor later than ninety days."

Senator HUGHES. That gets it between sixty and ninety days.

The CHAIRMAN. Yes. That is fair. I see no objection to that for the present. We will go over it pretty carefully in executive session.

Mr. CAMERON. On page 30, Mr. Chairman, if you please, I should like to have inserted, in line 7, after the word "and," the words "in all respects."

The CHAIRMAN. I have no objection to that. That is just a matter of words. That is all right.

Mr. CAMERON. Yes. And at the end of line 7—

Senator DILLINGHAM. You have "in all respects" down on the next line.

The CHAIRMAN. He changes it around.

Senator DILLINGHAM. Do you propose to strike those words out in line 8?

Mr. CAMERON. Yes, sir.

The CHAIRMAN. It may be better grammar; I do not know.

Mr. CAMERON. Then, at the end of line 7, strike out "in," and insert "then in force" after the word "laws." Then strike out, in line 3, the words "all respects."

Senator DILLINGHAM. So that it will read "and in all respects the provisions of said laws then in force?"

Mr. CAMERON. "Including the qualifications of electors," etc.

Senator DILLINGHAM. Yes.

The CHAIRMAN. Wait a minute. If you read what precedes that, it does not seem to me, on just a rapid glance at it, that it makes good sense. For instance, it says right above:

Such election for delegates shall be held and conducted, the returns made, and the certificates of persons elected to such convention issued, as nearly as may be, in the same manner as is prescribed by the laws of said Territory regulating elections therein of members of the legislature existing at the time of the last election of said members of the legislature—

That fixes what the laws were—

And in all respects the provisions of said laws then in force.

When in force?

Mr. CAMERON. I think the wording I have suggested makes it read a little better, Mr. Chairman.

The CHAIRMAN. As it was, there is no question about what it meant.

And the provisions of said laws.

What laws? The ones you have been referring to.

In all respect said laws.

Now, if you put in "then in force," do you not mix that up with the law that you are objecting to, in the acts of the last legislature?

Mr. CAMERON. No. I think this makes it clearer.

The CHAIRMAN. Well, make your suggestion, and we will consider it in executive session. Proceed. What is the next one?

Mr. CAMERON. Then, on page 33, line 17, after the word "English," insert:

Provided, That nothing in this act shall preclude the teaching of other languages in said public schools.

The CHAIRMAN. That will be considered in executive session. I will say right now that so far as I am concerned, I should never consent to that under any possible circumstances. Governor Hughes says he will not either.

Senator PILES. What is the language?

Mr. CAMERON. "Provided, that nothing in this act shall preclude the teaching of other languages in said public schools."

Senator HUGHES. You mean teaching Spanish, do you not?

The CHAIRMAN. Why, certainly. It means that New Mexico and Arizona—

Mr. CAMERON. It would cover Latin, French, etc. I suppose that the wording as it now stands would preclude the teaching of anything but the English language.

The CHAIRMAN. No; it says the schools shall always be conducted in English. There is not any use in going into refinements. The purpose of that provision, both with reference to New Mexico and Arizona, and particularly the former, is to continue the thing that has kept back the speaking of English and the learning of English, to wit: That because they may conduct the schools in other languages, in many of those Spanish speaking communities, particularly in New Mexico, they will do so.

Senator DILLINGHAM. And they have done so.

Mr. CAMERON. They do not do so in our own Territory. I can speak for Arizona in that respect. Of course I do not know as to conditions in New Mexico.

The CHAIRMAN. We will consider the matter.

Mr. CAMERON. But in Arizona I know that they have all English speaking teachers teaching school there.

Senator PILES. That does not prohibit the teaching of Spanish in high schools. It simply says the schools shall be conducted in English.

Senator HUGHES. You might want to teach Spanish like you do French, or any other language.

Mr. CAMERON. That is all we care for.

Senator PILES. I do not think that would prevent you from doing that.

Senator HUGHES. I do not either. We teach it in our own schools; but English is the language of the schools. We teach Spanish and we teach German and French in some of our schools.

Mr. CAMERON. And Latin and Greek and all those languages.

Senator HUGHES. And Latin and Greek.

Senator PILES. As soon as you get to the high schools, they teach the various languages.

The CHAIRMAN. Now go on.

Mr. CAMERON. On page 35, line 7, that will take the same course as the other—"not earlier than sixty days nor more than ninety."

The CHAIRMAN. Yes; in case we agree to it. Proceed.

Mr. CAMERON. Then, on page 37, line 15, I have changed the word "two" to "one," knowing that although we would like to have two very much—

The CHAIRMAN. Yes; that is a mere mistake. I suppose it is a mistake of the stenographer in writing the bill.

Mr. CAMERON. I suppose it is right that I should make these changes as I go along. And in the word "representatives" strike out the "s."

The CHAIRMAN. Yes; that is right. Then, on line 16, strike out "to be elected at large from said State." That is a mere mistake of the stenographer.

Mr. CAMERON. Yes. On page 37, line 16, after the word "Congress," strike out "to be elected at large from said State." We will not have any elected at large.

The CHAIRMAN. Strike out, then.

Mr. CAMERON. Strike out those lines.

The CHAIRMAN. And on the top of page 38, line 1—

Mr. CAMERON. Strike out the "s" in the word "representatives."

The CHAIRMAN. That is right.

Mr. CAMERON. And on the same page, line 6, strike out the "s" in "representatives."

On line 18, after the words "United States," insert: "And until the said State is so admitted into the Union, and said officers are elected and qualified under the provisions of the Constitution."

Senator KEAN. What do you do, strike that out?

The CHAIRMAN. No; he puts that in. That is correct. That is the same change that we made, I will say, when the New Mexico representatives appeared here before us, with reference to the people that were elected in 1908 continuing to hold office, otherwise they would be without any. Then you want the word "ten" stricken out in line 21, do you not?

Mr. CAMERON. Yes; line 21, page 38, strike out the word "ten" and insert the word "eight."

The CHAIRMAN. We have already made that change with reference to New Mexico. That is plainly right. Otherwise they might be without any officers.

Mr. CAMERON. On page 39, in line 13, at the beginning of the line, insert "and acts amendatory thereof or supplementary thereto." There have been a number of changes in the act, and this would make the bill conform to what the law now is.

The CHAIRMAN. That is correct.

Senator HUGHES. That is, they are not in the Revised Statutes; they are in the session laws?

Mr. CAMERON. Yes; they have not yet been compiled.

The CHAIRMAN. Now we come to page 40.

Mr. CAMERON. On page 40, line 4, strike out the words "shall not vest the title to;" on line 5 strike out all the line; on line 6 strike out all the line; and on line 7 strike out "main; but said granted sections."

The CHAIRMAN. The committee will consider that.

Mr. CAMERON. On page 40, line 15, after the words "area of," insert "all the national forests within said State, the area of."

The CHAIRMAN. We will consider that.

Mr. CAMERON. Now, gentlemen, we come to page 41, line 6.

The CHAIRMAN. That is the insertion of the amount you want appropriated?

Mr. CAMERON. Yes.

The CHAIRMAN. We shall be very glad to have your suggestions on that.

Mr. CAMERON. I should like to have inserted 125,000 acres for the legislative, executive, and judicial public buildings heretofore erected.

The CHAIRMAN. Oh, no; that is not the way you have it here. "For university purposes" is first.

Mr. CAMERON. Oh, yes—"For university purposes;" I have gone too fast. On page 41, line 6, insert "120,000 acres."

Then, on page 41, line 10, insert "96,000 acres."

The CHAIRMAN. "Insane asylums, 100,000 acres?"

Mr. CAMERON. "For insane asylums, 100,000 acres."

On line 11 insert: "For penitentiary purposes, 100,000 acres."

Senator PILES. There is no space on line 11. Do you mean line 12?

Mr. CAMERON. It was left out; it should be between lines 10 and 11.

The CHAIRMAN. It is a new provision.

Senator KEAN. "For penitentiary purposes, 100,000 acres?"

The CHAIRMAN. "For penitentiary purposes, 100,000 acres."
"For university purposes, 120,000 acres."

Senator HUGHES. The university is 20,000 acres ahead.

Senator KEAN. Go on. "Schools and asylums for the deaf, dumb, and the blind"—how many thousand acres?

Mr. CAMERON. One hundred thousand acres. "For miners' hospitals, 50,000 acres."

The CHAIRMAN. "Normal schools, 200,000 acres?"

Mr. CAMERON. "Normal schools, 200,000 acres. For state charitable, penal, and reformatory institutions, 100,000 acres."

Senator KEAN. You get an extra hundred thousand for penitentiaries, do you? How much for agricultural and mechanical colleges?

Mr. CAMERON. One hundred and fifty thousand acres.

The CHAIRMAN. Now, Mr. Cameron—

Senator KEAN. Go ahead; I want to see what the total of all this is.

The CHAIRMAN. Pardon me a minute. I want to point out a discrepancy which, on the face of it, looks absurd. For university purposes—which, after all, is really the central institution of the State, which I suppose you intend to build up to a great and notable institution—you have 120,000 acres; and for agricultural and mechanical schools you have 150,000 acres—30,000 more. How many students have you in your mechanical and agricultural colleges?

Mr. CAMERON. At the present time?

The CHAIRMAN. Yes.

Mr. CAMERON. We have no institution of that kind at the present time, Mr. Chairman; but we expect to have one in due time, and we are hopeful that you will provide for it.

The CHAIRMAN. Have you a university down there?

Mr. CAMERON. Yes, sir.

The CHAIRMAN. How many students have you there?

Mr. CAMERON. Three hundred or more.

Senator KEAN. Let us continue this. I want to know the total number of acres you want; that is all.

Senator PILES. How about the school of mines?

Mr. CAMERON. School of mines, 100,000 acres.

The CHAIRMAN. Have you a school of mines down there?

Mr. CAMERON. Yes, sir; yes, sir.

Senator KEAN. How about military institutes?

Mr. CAMERON. One hundred thousand acres.

The CHAIRMAN. Go on to your next item. I believe it is after "acres," in line 20.

Mr. CAMERON. Insert, after "acres," in line 20, the following:

For irrigation for public purposes and for improvement of rivers by confining them within their banks and preventing destructive overflow of streams, six hundred thousand acres; and for the payment of the valid and subsisting debts of said Territory and of the debts of the counties thereof which are valid and subsisting at the date of the approval of this act and which said Territory may have assumed or said State shall assume, three million three hundred thousand acres: *Provided*, That if there shall remain any of the three million three hundred thousand acres of land so granted, or of the proceeds of the sale or lease thereof, or rents, issues, or other profits therefrom, after the payment of said debts, such remainder of lands and the proceeds thereof shall be added to and become a part of the permanent school fund of said State, the income therefrom only to be used for the maintenance of the common schools of said State.

The CHAIRMAN. The committee will consider that. Mr. Cameron only asks 300,000 acres more than was originally given.

Mr. CAMERON. If you will excuse me just a moment, Mr. Chairman, I will continue with the bill.

The CHAIRMAN. All right; go ahead.

Mr. CAMERON. On page 44, on line 18, strike out the word "eleven" and insert "twenty-eight." That corresponds to our bill. Section 11 would correspond to the New Mexico bill.

The CHAIRMAN. Yes; that is correct. That is a verbal change. That is an error of the stenographer.

Senator KEAN. It should be "section 28?"

Mr. CAMERON. It is section 28 in our bill. It was copied, I suppose, and a typographical error occurred.

The CHAIRMAN. Now, the next line?

Mr. CAMERON. Now, on pages 44 and 45 I should like to have the entire section stricken out.

The CHAIRMAN. That section is inserted on the earnest advice of the department, after a great deal of work; and there has been a modification submitted by the department which I will lay before the committee in executive session. We will pass that.

Mr. CAMERON. That will start at line 20 and end with the inclusion of line 8 on page 45. It commences with line 20 on page 44, and includes line 8 on page 45.

The CHAIRMAN. The next is page 47?

Mr. CAMERON. The next is page 47. On the twenty-fifth line, at the bottom of the page, strike out "eighth" and insert "ninth." We belong to the ninth judicial district.

The CHAIRMAN. That is correct.

Senator HUGHES. And New Mexico goes to the eighth judicial district?

Mr. CAMERON. Yes; that is right.

Senator HUGHES. You are in the ninth now?

Mr. CAMERON. We are in the ninth now.

The CHAIRMAN. Were you at any time in the eighth judicial district?

Mr. CAMERON. No; I think not.

Senator HUGHES. That is what I thought.

Mr. CAMERON. On page 49, at the top of the page, in line 1, strike out the word "or" after "appeal," and insert after "error" "or petitions for review."

Senator DILLINGHAM. What is that?

Mr. CAMERON. On line 1 of page 49, strike out the word "or," and after the word "error" insert "or petitions for review."

Then, in line 4, page 49, after the word "supreme," insert "or district courts," adding an "s" to the word "court." Do you see?

The CHAIRMAN. Yes.

Mr. CAMERON. Then, in line 10 of the same page, after the word "circuit," insert "court."

The CHAIRMAN. That is a mere omission.

Mr. CAMERON. And then, in line 20 of the same page, after the word "supreme," insert "or district," and add "s" to the word "court."

The CHAIRMAN. Yes.

Mr. CAMERON. Then, in line 22, after the word "appeals," strike out the word "and," and after the word "error," insert "and petitions for review."

The CHAIRMAN. That makes it follow the language above.

Mr. CAMERON. Then, on page 52, line 6, strike out the word "eighth," and insert the word "ninth." That makes it the circuit court of appeals for the ninth circuit.

Now, Mr. Chairman and gentlemen of the committee, coming to the question of the bond issue, which has been taken up by my predecessor, Mr. Smith, in regard to granting land for the payment of the Pima County bonds, I may say that we have practically the same condition existing in Yavapai and Coconino counties. At the time authority to issue bonds in aid of a railroad was granted to Yavapai County Coconino County was a part of Yavapai County. There was voted by the legislature, in 1885, a bond issue to aid what was known as the old "P. and A. C. Railroad."

Senator KEAN. What did the "P. and A. C." stand for?

Mr. CAMERON. The Prescott and Arizona Central. It was the first road that was built from Seligman Junction to Prescott.

Senator KEAN. Who built that road?

Mr. CAMERON. It was built by a man by the name of Bullock—Thomas Bullock.

The CHAIRMAN. Is not that one of the Frank Murphy lines?

Mr. CAMERON. No.

Senator KEAN. Was not he a banker in New York that failed?

Mr. CAMERON. No; I think not. He was a promoter who built this railroad. There was a subsidy of \$4,000 a mile granted by the legislature, and the road was to be 72 miles long, making a total of \$288,000. This subsidy was in the form of fifty-year bonds. I am not posted as to the amount of interest they carried, but we have been paying interest on them ever since. When Coconino County was segregated from Yavapai County, the former was burdened with \$159,000 as its proportion of the indebtedness.

Senator HUGHES. That was for Coconino County?

Mr. CAMERON. That was for Coconino County alone. It was Coconino County's proportion of the indebtedness that was then resting on Yavapai County. In former statehood bills the proposition has been made that the indebtedness of the Territories should be paid either by a cash allowance or by grant of lands. I have at this time no intimation as to what view this committee will take of the situation. We are applying for statehood, and we want statehood at all hazards. We appeal to the committee to recommend for us the most liberal and best statehood bill that can be had. We hope that the attitude of this committee toward the new State of Arizona will be to provide us with as much land as possible. If we can not secure enough land to pay the bonds or the indebtedness of the Territory, we should not object if you were to provide for an appropriation of about \$2,500,000 in cash.

The CHAIRMAN. Could we induce you to accept \$5,000,000 cash if we urged it on you?

Senator HUGHES. Do not commit yourself rashly.

Mr. CAMERON. Mr. Chairman, I should be delighted to have \$5,000,000 for Arizona; but we do not expect it. I hope I will appear reasonable in my requests. We feel that we are entitled to

enough lands, at their reasonable valuation, to at least pay our indebtedness; and we hope, furthermore, that you will grant us the lands we have requested for the maintenance of our public schools and the other public institutions that are recommended in this bill.

Senator KEAN. What is the total assessed value of all property in Arizona?

Mr. CAMERON. I will give that to you. I will ask these other gentlemen to look it up for me. We ought to have it. I have the records here.

The CHAIRMAN. As soon as you answer that question, we might as well save time by asking questions about your various suggestions for appropriations for these institutions, instead of going over the matter six or eight times.

Mr. CAMERON. The total assessed value of all property in Arizona is \$83,746,403.96.

Senator HUGHES. Have you said all you care to about the matter of bonds?

Mr. CAMERON. No; I should like to make just a few further remarks on that subject.

The CHAIRMAN. Surely; go ahead.

Mr. CAMERON. I am heartily in favor of the committee's recommending the payment of the Pima County bonds, or any other bonds, through the donation of lands. I think they should be paid, and I should like to see them paid. In this connection I call to the committee's attention for consideration also the matter of the Yavapai and Coconino county bonds, as these counties are in practically the same plight. I feel that we should ask the committee to pay with public lands the entire indebtedness of the Territory.

I believe it is a well-settled fact—at least it seems apparent to me—that we can not get an appropriation of money in this bill. Therefore we believe we should be granted the amount of land that we have asked for to pay our public indebtedness, and also the amounts I have stated for the public institutions. I believe Congress will not regret in any sense of the word the granting of these lands. I believe the people of Arizona are entitled to them, and I hope the committee will so recommend in this bill. The matter has been thoroughly discussed for years here before you, and I think you understand our condition thoroughly. I only wish to add this: Our Territory is improving very rapidly, and we are going to have one of the best States in the Union, and naturally we want to be started off on an equal footing with other States that have been taken into the Union.

The CHAIRMAN. Right there, Mr. Cameron: Do you know a single other State where an appropriation of lands or money was made for the payment of territorial and municipal debts?

Mr. CAMERON. Mr. Chairman, I do not know that I have any information to that effect, but—

The CHAIRMAN. Referring to your last remark, where you ask for appropriations to pay these debts so as to start out Arizona as other States were started out, I can tell you that that has not been done in a single case in the history of the United States.

Mr. CAMERON. Mr. Chairman, may I ask if there has been any Territory admitted to the Union whose indebtedness has not been taken care of in some direct or indirect way?

The CHAIRMAN. They took care of their indebtedness themselves. Mr. CAMERON. I notice that you gave Oklahoma and the Indian Territory \$5,000,000.

The CHAIRMAN. No; that has been explained here before, but I will explain it again, Mr. Cameron, because I want to have you satisfied, and to have the people of the Territory satisfied.

The reason that was done was this: In the Indian Territory there was a unique situation. There were no lands belonging to the United States which the United States could appropriate. A new State was being made by joining Oklahoma and the Indian Territory. In Oklahoma there were lands belonging to the United States, just as there have been in other States, which they could appropriate. In the days of Mr. Dennis Flynn, when he was Delegate from the Territory of Oklahoma, a large appropriation of lands was made for school purposes.

When the time came for the formation of the new State, there was not a single thing that we could appropriate for schools in the Indian Territory, merely because of the unique situation there, viz, that the United States did not own any lands. For that reason, after long consideration as to how we would get over that difficulty, this committee made the appropriation that you speak of. I think I suggested it myself as the only way that we could untangle the knot. That was the reason that appropriation was made. Otherwise, there would have been an appropriation for school purposes. That was not made, also.

That is the way the \$5,000,000 happened to be appropriated. Even that appropriation was not made for the purpose of paying the territorial and municipal indebtedness, but was made for a school fund, so as to put the Indian Territory in some sort of fashion upon an equality with the remainder of the new State. Now, that explanation ought to be satisfactory (whether it is or not, I do not know), because it is history.

Mr. CAMERON. That is very satisfactory, Mr. Chairman. I was not here at the time the joint statehood bill was up; but I understand from reading it that it provided for an appropriation of \$5,000,000. Did it not?

The CHAIRMAN. The joint statehood bill, alas, was defeated. That great measure of statesmanship met an untoward fate. Whatever may have been the provisions of that bill, it now stands merely on the basis of proposed legislation.

Senator HUGHES. Of good intentions.

Mr. CAMERON. I should like to have you, then, use the same good intentions toward us, which I know you will do, and give us some land in lieu of the money which we might hope to get. That is the reason I am asking it sincerely here to-day. The people realize that we have a lot of public land out there. As you say, these other States did not have any public land.

The CHAIRMAN. Oh, no; you are mistaken.

Mr. CAMERON. Excuse me; I did not mean that.

The CHAIRMAN. I did not say the other States did not have any public land. They all did, except the Indian Territory. In all of them an appropriation of public land belonging to the United States was made for school purposes and various other purposes, with which everybody is familiar. But in not one instance—not even

in the instance of the Indian Territory, where there were no government lands—was there a foot of land appropriated by the United States for the payment of the municipal and territorial debts. I believe that to be the case. If I am wrong I should be glad to be corrected, but I am sure you will find that that is the case.

Mr. CAMERON. Well, Mr. Chairman, you understand that I am here as the representative of Arizona, and I do hope that you will rather strain a point this time and start us off with a good bonus of lands for the State.

The CHAIRMAN. The committee understands, Mr. Cameron, that as Delegate from Arizona you fervently urge us to give you all you can get.

Senator HUGHES. And something more.

The CHAIRMAN. And something more.

Mr. CAMERON. No; I told you that we did not wish to be unreasonable, Senator Hughes.

Senator HUGHES. No; but I say you want more than you probably will get.

Mr. CAMERON. That may be; but I wish you could change the policy for once in the history of the country and give us what we are asking for and let us go in smiling.

Senator HUGHES. You mean come in smiling.

Mr. CAMERON. That is it—come in smiling.

Senator KEAN. Will you not come in smiling.

Mr. CAMERON. Yes; we will come in smiling.

Senator HUGHES. I want to ask just one question about that matter, Mr. Cameron. In the case of Pima County, Mr. Smith told us that outside of a few miles of road the road for which the bonds were issued was never built, and therefore the larger part of them were fraudulent, or at least issued without consideration.

The CHAIRMAN. And that they were gotten out of the safe fraudulently.

Senator HUGHES. Yes; that they were gotten out without being sold and issued in that way. Does that apply to Coconino and Yavapai County, or is it merely the legal proposition?

Mr. CAMERON. It is the legal proposition, Mr. Hughes.

The CHAIRMAN. Is it not also a proposition of fact? Let us clear up that matter. I understood from Mr. Smith, as Senator Hughes did, that not a few miles of road, but only a few rods, was built.

Mr. CAMERON. They graded, I think, something like 7 or 8 miles. Now, this is not definite.

The CHAIRMAN. And laid tracks?

Mr. CAMERON. And laid ties and tracks.

Senator HUGHES. He said they laid some ties along here and there—enough to fasten the rails to.

Mr. CAMERON. But the bonds were issued.

The CHAIRMAN. Let us get that straight, because it is rather important. I understand from Mr. Smith's statement, and also from the other statements that have been made during the past year before this committee, that these bonds were in the county safe, and that in some way or other they were gotten out. They were gotten out, as I was led to believe, surreptitiously, or fraudulently, or burglariously, or something of the kind. At all events, they were taken out of the safe without authority, and got onto the market in that way.

With the exception of this short line of road which, as Governor Hughes said, was merely a tie here and a tie there, but was really of no use, these bonds were issued, and that debt was saddled upon those people, not only without consideration, but by the bonds having been taken, I will say, criminally from the safe. I say that because they were taken without any authority, without anybody knowing how they got out, and gotten on the market. Now, is that the case?

Mr. CAMERON. Mr. Chairman, I would not make any assertion of that kind, because I do not know how the bonds were gotten out of the safe, or anything regarding that part of it.

The CHAIRMAN. Mr. Smith's explanation of that matter was very clear and very illuminating. As I remember it (and I want to be corrected if I am wrong, because this is an important point), the statement was this concerning the validating act: He said (and I understand it to be the fact) that he always thought that the act of Congress validating these bonds, as well as some other territorial acts—

Mr. CAMERON. Of the people of Yavapai County.

The CHAIRMAN. Pardon me—was passed because a railroad promoter down there said, with reference to the building of some new roads that he was promoting, that he could not sell those bonds so long as the Territory had from these former occurrences the reputation of repudiating its indebtedness; and that therefore the validation of this indebtedness was gotten through Congress, so that it might be easier to market other bonds. Is that the way you understood him, Governor Hughes?

Senator HUGHES. Yes; and that it was done upon a resolution which said it only applied to the legal outstanding indebtedness upon which the counties had paid interest.

The CHAIRMAN. Mr. Cameron, do you indorse, as a matter of justice, the validation of those bonds in 1896 by the act that was gotten through Congress at that time?

Mr. CAMERON. Mr. Chairman, I want to be plain and clear on this matter. I do not know the exact conditions of the issuance of those bonds. I do know the conditions under which the bonds were issued in Yavapai County. I will say this, however: Congress has seen fit to validate those bonds; they are a part of our territorial indebtedness, and the indebtedness of the counties by which they were voted, and naturally I am in favor of paying any indebtedness that has been validated by the courts or by Congress.

The CHAIRMAN. Especially if the United States will pay it for you?

Mr. CAMERON. I will not say that. They will have to be paid anyhow. As long as this indebtedness has been validated I do not see any other way out of it but to come to the front and pay it.

Senator PILES. Mr. Cameron, it seems from the statement of Mr. Smith that this validation by Congress was really procured under false pretenses. On page 36 of his statement, after explaining that the Supreme Court had declared the bonds invalid in 153 United States and 155 United States, and that the people of that county rested on that decision, he says:

A gentleman appeared before the Arizona legislature and got through that legislative body a resolution or memorial to Congress, asking Congress to validate all legal obligations of the Territory, to show that we were not repudiationists. The man who got this resolution through was claiming that he was going to build what was known as

the North and South Railroad in Arizona, and he could not liquidate the bonds on which he purposed to build the road unless he had some assurance from the legislature that we were not repudiationists and would pay our just obligations; and in order to help him to sell such bonds for such purpose he asked them to pass this memorial, on which the Supreme Court rested much of the decision in the subsequent validation of those bonds in the case of *Utter v. Franklin*. The Supreme Court rested its decision largely on this memorial of the Territory of Arizona; but if you will read that memorial you will find that it said, "All obligations of the Territory which have been recognized and on which interest has been paid," which was tantamount to an exclusion of the Pima County bonds, for they fell within that excluding clause. They never had paid a cent of interest on them. Notwithstanding, the Supreme Court validated them.

So it would appear that some man went down there and surreptitiously got through the legislature a memorial to Congress to validate the bonds, and the members of the legislature thought that they were simply aiding the man to further some enterprise in the Territory, and on that peculiarly worded memorial Congress validated those bonds.

Mr. CAMERON. In Mr. Smith's argument before you the other day he said:

There was no contention about any county bonds or other obligations of the Territory except these Yavapai County and Pima County bonds.

Practically the same condition exists in Yavapai County as that existing in Pima County, and I think that we are entitled to the payment of all these bonds.

The CHAIRMAN. They were all the same, of course.

Mr. CAMERON. All the same, and practically in the same category; and my contention is this—

The CHAIRMAN. And all fraudulent.

Mr. CAMERON. The bonds were all deemed to be invalid, both the Pima County bonds and the Yavapai County bonds; and Coconino County is to-day made up of what was then part of Yavapai County.

The CHAIRMAN. That is to say, they were not only fraudulent in law, as determined by the Supreme Court under the provisions of the act of 1878—about the construction of which I think anybody who will examine it will agree that the language of the Supreme Court was very severe, and it said that it admitted of no argument—but they were also fraudulent in fact. In the case of the Santa Fe Railroad aid bonds, they were fraudulent in law, but not fraudulent in fact, in that the railroad was actually built. In the Arizona case they were not only fraudulent in law, but they were fraudulent in fact, (1) in that the consideration never passed; (2) in that the bonds were gotten out of the safe in an illegal manner that nobody knows about; (3) in that they were put upon the market in some manner that no person knows about. So that made them fraudulent in fact as well as in law.

Mr. CAMERON. Mr. Chairman, there is no question that all these bonds were issued and that they were validated by Congress and made obligations of the Territory as well as of the respective counties. We are confronted to-day with these obligations, and they are obligations of the Territory as well as of the counties.

(The committee thereupon took a recess until 2 o'clock p. m. of the same day.)

AFTER RECESS.

**CONTINUATION OF STATEMENT OF HON. RALPH H. CAMERON,
DELEGATE FROM THE TERRITORY OF ARIZONA.**

Mr. CAMERON. Mr. Chairman, you called my attention to the number of acres of land asked for.

The CHAIRMAN. Yes; first, for university purposes.

Mr. CAMERON. In view of the suggestions of the committee this morning, I deem it advisable to increase the request as to university land to 200,000 acres and reduce the acreage for the penitentiary to 50,000 acres instead of 100,000. I should like to ask that 200,000 acres be appropriated for the universities. The other lands I leave as they were mentioned or proposed this morning.

The CHAIRMAN. Have you any hospitals for disabled miners?

Mr. CAMERON. We have not at present, Mr. Chairman.

The CHAIRMAN. Has any other State got them?

Mr. CAMERON. Our present public buildings or territorial institutions in Arizona are the asylum for the insane, the capitol building, the industrial and reform school, the Northern Arizona Normal School, the Tempe Normal School, the penitentiary, the university, the pioneers' home, and School of Mines.

In regard to the election matter, Mr. Chairman, I think that with the data that has already been placed before the committee the matter has been put up to you in as strong a light as it probably could be.

The CHAIRMAN. Do you, as Delegate, concur in that?

Mr. CAMERON. I do; yes, sir.

The CHAIRMAN. I want to ask you about that. I also asked Mr. Morrison and others about the six-months' provision. They said they approved of that, and gave the reasons. Is that your position, also?

Mr. CAMERON. Yes, sir.

The CHAIRMAN. You have read this bill?

Mr. CAMERON. I have, thoroughly; yes, sir.

The CHAIRMAN. You have noted the careful restrictions put about the disposition of lands after they are appropriated?

Mr. CAMERON. Yes, sir.

The CHAIRMAN. As the Delegate from that Territory, what have you to say about those restrictions?

Mr. CAMERON. I heartily agree with them in every respect.

The CHAIRMAN. The people down there do, too, do they?

Mr. CAMERON. I believe the restrictions on such public lands can not be made too broad.

The CHAIRMAN. As the Delegate from the Territory and the representative of the people down there, what do you think about the restrictions that we have already placed about them in this bill?

Mr. CAMERON. I believe they are absolutely right.

The CHAIRMAN. What have you to say, as the Delegate from the Territory and as the representative of the people down there, concerning the provisions of this bill separating the election for the ratification of the constitution and the election for the choosing of all the officers of the new State, after it is reported to Congress and to the President, etc.? You know what I mean. The bill provides for the ratification of the constitution at one election, and its submission

to the President and to Congress. Then, after certain things have been done, as stated in the bill (which you have read), it provides that in case of approval by the President and by Congress, or in case of approval by the President and nonaction by Congress at the next session, the elections for State and other officers shall occur, thus separating the two.

Mr. CAMERON. Yes.

The CHAIRMAN. What have you to say about that? Do you approve or disapprove of that?

Mr. CAMERON. I must be frank and say the people of Arizona do not see the necessity of further action by Congress after the President shall have approved the constitution. They want statehood at the earliest practicable moment. But if the committee, after full consideration shall, in their best judgment, deem it advisable that the constitution shall also be referred to Congress for approval, we will be content. As to the separation of the election for the adoption of the constitution and the election for the selection of State officers, I personally and the people of Arizona approve the provisions of the bill.

I will refer back to the Pima County bond issue, and say that I heartily approve of what my predecessor stated during his hearing. I believe those bonds should be paid out of the public lands. Mr. Smith, as he states, lives in Pima County, and is thoroughly familiar with the conditions that exist there and did exist at the time of the issue of these bonds. I want to say that I approve of his statement. In addition, I wish to ask the committee to give to the Yavapai and Coconino County bonds the same consideration as is given the Pima County bonds. I believe they should receive the same treatment at the hands of the committee, and I believe that while they are considering this bond matter they will give us the same consideration as has been asked for the Pima County bonds.

I should like to refer for a moment to the public schools of Arizona. We are all very proud of the school system there, and believe that we have one that is not excelled by that of any State in the Union. The public schools are in excellent condition, notwithstanding the growth of the population in many districts beyond the immediate capacity of the schools. There are now 11 fully equipped high schools in the Territory. They are doing the same grade and character of work that high schools elsewhere are doing; and their graduates enter the leading universities and colleges of the country without other preparation than is afforded them there.

I feel that the committee could not do better than to give us, in the way of a donation, lands that would be put to school purposes, for I think there is no use to which they could be better devoted; and I ask that the committee will in every respect look favorably upon the requests of those who have appeared before the committee, and grant us the lands that we have asked for in this bill.

(The committee thereupon adjourned.)

FRIDAY, MARCH 4, 1910.

**COMMITTEE ON TERRITORIES,
UNITED STATES SENATE,
Washington, D. C., Friday, March 4, 1910.**

The committee met at 10 o'clock a. m.

Present: Senators Beveridge (chairman), Dillingham, Burnham, Kean, Dick, Piles, Owen, and Hughes.

**STATEMENT OF REV. WILLIAM H. KETCHAM, DIRECTOR BUREAU
OF CATHOLIC INDIAN MISSIONS.**

The CHAIRMAN. Doctor Ketcham, the committee will be very glad to hear any statement you have to make concerning the bill. Perhaps you had better first give your name.

Father KETCHAM. Rev. William H. Ketcham. I am director of the bureau of Catholic Indian missions.

The CHAIRMAN. Where is your residence?

Father KETCHAM. I reside in the city of Washington, but my duties take me over all the Indian country, all over the United States, and recently I have been down in Arizona and New Mexico. I have made a number of trips down there, and am quite familiar with conditions there. This time I found the question of statehood talked of a great deal down in that country. Of course, not being a citizen of those Territories, I do not feel that it is within my province to say much on the subject of statehood. I think that is a question that the people who are directly interested in should have the most to say about; but since there are so many Indians there I noticed a couple of conditions that I think ought to be corrected in the statehood bill.

The CHAIRMAN. Please call our attention to them.

Father KETCHAM. In the first place, so far as concerns the Indians, the Indian Rights Association of Philadelphia, which has an agent here, has already called the attention of the committee of the House to the fact that in section 3 of the bill—

The CHAIRMAN. What bill?

Senator HUGHES. Do you mean the House bill or the Senate bill?

Father KETCHAM. This letter was addressed to Hon. E. L. Hamilton, chairman of the Committee on Territories, House of Representatives.

Senator HUGHES. That is the House bill.

The CHAIRMAN. Please, Mr. Secretary, give Doctor Ketcham the bill we are considering.

Senator HUGHES. Well, both of those may be up. It is just as well to give it as to both.

The CHAIRMAN. Yes; he can refer to them.

Father KETCHAM. This has not been changed. Section 3—

The CHAIRMAN. That would not be section 3 of this bill.

Father KETCHAM. No; it would not be. I do not know where it is in the Senate bill.

The CHAIRMAN. What is it about?

Father KETCHAM. The letter says, "Section 3 of the bill provides: 'The constitution shall be republican in form, and make no distinc-

tion in civil or political rights on account of race or color, except as to Indians not taxed."

The Indian Rights Association urges that the words "except as to Indians not taxed" be left out. They do not see any reason for inserting that phrase, and in fact it appears to me to be a direct discrimination against the Indians. I do not see why they should suffer in their civil or political rights because they are not taxed.

The CHAIRMAN. I suppose that is just a repetition of the phraseology of other statehood bills.

Father KETCHAM. Yes; but the question is: Why use it in this bill? Why have wording of this kind? I will leave this letter, if you like. I concur in views of the Indian Rights Association in this matter.

The CHAIRMAN. You have a memorandum there made by that association?

Father KETCHAM. Yes, senator.

The CHAIRMAN. Include it as a part of your statement, please.

Father KETCHAM. Yes; I will include it.

(The letter above referred to is as follows:)

DECEMBER 31, 1909.

Hon. E. L. HAMILTON,

Chairman Committee on Territories, House of Representatives.

SIR: The discrimination against Indians in the bill (H. R. 11578) now pending before your committee, which provides for the admission of the Territory of Arizona into the Union, is respectfully called to your attention.

Section 3 of the bill provides:

"The constitution shall be republican in form and make no distinction in civil or political rights on account of race or color, 'except as to Indians not taxed.'"

It is believed that the phrase quoted has not been seriously considered nor its import fully understood in the light of present-day conditions among our Indian population.

In Article I of the Constitution of the United States, in providing for the right of representation in Congress, use is made of the term "excluding Indians not to wed" to limit the right of suffrage; a like limitation is found in the fourteenth amendment to the Constitution and the laws for carrying out the constitutional provisions. So that it does not appear that the phrase is used except to limit representation in legislative bodies and deny the right of suffrage to Indians so long as they are not taxed. It follows that the term "except as to Indians not taxed" has been incorporated in most of the enabling acts providing for the admission of the various Territories into the Union as a matter of course.

It seems, however, that when attention has been directed to the use of the phrase it has not been adhered to. No such provision against our Indian race is contained in the constitutions of Idaho and Wyoming, nor in Oklahoma, with an Indian population larger than that of any other State.

If the phrase "except as to Indians not taxed" is embodied in the constitution of the new State there will apparently be no barrier against the enactment of legislation prejudicial to Indians within state borders.

Title 45, Revised Statutes of Arizona (1901), paragraph 3092, section 8, provides:

"All marriages of persons of Caucasian blood, or their descendants, with negroes, Mongolians, or Indians and their descendants shall be null and void."

Paragraph 3024, section 8, provides:

"All marriages valid by the laws of the place where contracted shall be valid in the Territory: *Provided*, That all marriages solemnized in any other State or Territory by parties intending at the time to reside in this Territory shall have the same legal consequence and effect as if solemnized in this Territory; parties residing in this Territory can not evade any of the provisions of its laws as to marriage by going into another State or Territory for the solemnizing of the marriage ceremony."

Magistrates and other officials who perform these prohibited marriage ceremonies are thereby rendered liable to heavy penalties.

The foregoing statutes now in force in Arizona would be rendered void by the proposed enabling act for the new State, so far as they refer to all races "except as to Indians not taxed," and these latter will be liable to be subjected to further restrictive

legislation at the will of the legislature, and the offspring of such marriages denied the right of inheritance.

We submit that the Indians should be entitled to enjoy rights and privileges in the proposed new State which are at least no less than those accorded Mongolians and negroes.

If it is desired that Indians or other persons whose property is exempt from taxation under authority of federal or other statute shall be denied the right of suffrage or be ineligible for any elective public office, such a provision can readily be inserted in the appending bill in lieu of the phrase "except as to Indians not taxed."

We trust you will give your support to the effort to eliminate the apparent discrimination in the bill against our native race.

Very respectfully,

Agent, Indian Rights Association.

Father KETCHAM. That is the first point, Mr. Chairman. I ulwod urge that the words "except as to Indians not taxed" be lefutt o. I can see no reason for them.

Senator HUGHES. That is in the House bill.

Father KETCHAM. That is in the House bill. It is also in the Senate bill.

The CHAIRMAN. It is in both bills.

Senator HUGHES. Yes.

The CHAIRMAN. The truth about it is, I suppose, that it is merely a copy of the language that has been in nearly all the statehood bills.

Father KETCHAM. Then another feature is this: The Territory of Arizona at the present time prohibits the intermarriage of Indians with Mexicans or with "white" people. There are over 30,000 Indians in Arizona. If this condition continues, the result will be that the State of Arizona will always have a separate and distinct body of people within its borders, because it ignores the natural right of intermarriage. I think that ought to be rectified by the enabling act. I have suggested this amendment:

That said constitution shall contain a provision to secure to the people of the proposed State the right of intermarriage between white and Indian races.

The CHAIRMAN. That would be secured by merely leaving out the feature which you point to as being objectionable.

Senator HUGHES. It would leave it to the State.

Father KETCHAM. It would leave it to the State.

Senator HUGHES. I think it would be left there anyhow. It would be under the moral obligation—

Father KETCHAM. We feel that it would be more apt to be carried out if it were stipulated that it should be done.

Senator HUGHES. Is there any other State or Territory in which the constitution includes a provision relating to marriage between Indians and whites?

Father KETCHAM. I do not know that there is. I do not know that any such situation as this has had to be met heretofore. The people of this country seem to have little or no repugnance to the intermarriage of Indians and whites. The Five Civilized Tribes—

Senator HUGHES. Do not the Indians object to it?

Father KETCHAM. No, Senator. Well, of course some of the old Indians may object.

Senator HUGHES. I know some of them do. That is the reason I asked the question.

Father KETCHAM. They may object; but they do not object to the right. The Indians want the people to be free, but they may object to the carrying out of that right in individual instances. The Indians do not care much for legislation on these subjects. They want to be free. Take the Five Civilized Tribes of Oklahoma. They came from the Southern States. They were southern tribes—the Chickasaws, Cherokees, Choctaws, Seminoles, and Muskogees or Creeks. They have long had a percentage of white citizens, of intermarried citizens; and these are to a great extent southerners. They are nearly all southerners from Alabama, Mississippi, Tennessee, North Carolina, and the various Southern States. Even in the South there never seems to have been, at least in later times, any objection to this intermarriage.

The CHAIRMAN. Your observation is, I take it from what you say, and from your wide experience in this field of work, that the intermarriage of Indians and whites should not be denied; but, on the contrary, you suggest it should be actually affirmatively provided for?

Father KETCHAM. Yes; that this right should be protected by positive legislation, so that the Indians may not at some future time be deprived of this right.

Another point is that the only real solution of the Indian question is intermarriage, and a gradual intermingling—

The CHAIRMAN. Absorption.

Father KETCHAM. Absorption. That is the only logical and natural solution; and that will be the solution wherever such laws as this do not prevail. Moreover, the fact that Arizona has this law does not prevent intermingling; it simply puts a premium, as it were, on illegitimacy. Why not allow legitimate marriage? Why prohibit it by law?

Senator HUGHES. What is the paragraph that you refer to there, Doctor?

Father KETCHAM. This is to be inserted after line 20, section 18, on page 30.

The CHAIRMAN. We are going now to another bill.

Senator HUGHES. I mean the language to be excluded.

Father KETCHAM. The language to be excluded?

The CHAIRMAN. If you put it in the hearing, we will get it when we come to read it.

Father KETCHAM. This amendment about the intermarriage feature should come in on page 30 of the Senate bill. I will leave this memorandum. It should come in after line 20 in section 18. I think it should go in for both Territories, because while the question has not been raised in New Mexico, it would settle the question once for all. It occurs to me that in admitting these two Territories as States it would be well to make provision for things of this kind, to prevent future complication or to protect this Indian population in its natural rights.

The CHAIRMAN. Very well.

Father KETCHAM. So I urge very strongly that that be done. It may not seem necessary, but I think for the good of the Indians it should be done.

The CHAIRMAN. Very well.

(The memorandum submitted by Father Ketcham is as follows:)

ARIZONA.

Second. That said constitution shall contain a provision to secure to the people of the proposed State the right of intermarriage between white and Indian races.

(To be inserted after line 20 in section 18 and page 30 and to be numbered Provision No. 2; lines and provisions thereafter in said section to be renumbered.)

(Same for New Mexico after line 2, page 4.)

The CHAIRMAN. Now, will you pass to the next question?

Father KETCHAM. Another question refers to the Mexicans. As many of the Mexicans are partly Indian, it also has some reference to the Indians. At the present time there is an educational test for suffrage in Arizona—

The CHAIRMAN. You refer to the law that was passed by the last legislature?

Father KETCHAM. Yes.

The CHAIRMAN.. This Senate bill corrects that.

Father KETCHAM. Well, I am told it does; but at the same time I have an idea that it does not meet all the conditions. These Mexicans are numerous—

Senator HUGHES. Do you mean, now, those that would be affected by the law in their voting?

Father KETCHAM. Yes.

Senator HUGHES. We have been told there are about 1,000 to 1,500 of them.

Father KETCHAM. It will affect a great many.

The CHAIRMAN. Governor Sloan says there are about 1,800—ranging all the way from 1,000 to 1,800.

Senator HUGHES. Yes.

The CHAIRMAN. The way the law reads it could affect every Mexican, because he has to read a passage to the satisfaction of the judges.

Senator HUGHES. I can not agree to that. I know these people. I have been to school with some of them. They read English as well as you or I, and they understand it; and they are practicing lawyers.

Father KETCHAM. Some are.

Senator HUGHES. It would not affect all of them.

Father KETCHAM. The law that provides they must read to the satisfaction of the judges could exclude you or I. I understand that they have to read a certain passage to the satisfaction of the judges to whom they read it.

Senator HUGHES. Oh, no.

Father KETCHAM. It has been so represented to me, and I would like to have it looked into.

Senator HUGHES. There is a floating indeterminate notion that the registering officers may have that power, but the law does not in its own terms say that.

The CHAIRMAN. The law leaves it to them.

Father KETCHAM. It leaves it to them, so I am told.

Senator HUGHES. Read that to him, so that he may direct his remarks to the language of the law itself. That was in whose testimony? Mr. Morrison's?

The CHAIRMAN. That was in Mr. Cameron's testimony. It reads:

And who not being prevented by physical disability from so doing—

Senator HUGHES. Where is that?

The CHAIRMAN. It is on page 45 of the hearings [continuing]:

is able to read the Constitution of the United States in the English language in such manner as to show he is neither prompted nor reciting from memory, etc.

Now, then, that has got to be done in order that the registering officer may put his name on the great register. There is no person to determine whether he does that except the registering officer.

Father KETCHAM. It is really left to him.

The CHAIRMAN. There is no question about that being the effect of the law.

Senator HUGHES. I can not agree to that.

The CHAIRMAN. Who would it be left to?

Senator HUGHES. Of course every question of fact to be determined by somebody must be determined by that person. It can not be determined outside; but it does not follow because a man is authorized to do a thing that he would do it wrongfully or fraudulently, or for the purpose of depriving a man who is entitled to it of his vote.

The CHAIRMAN. That is a question of argument. I sit, for instance, as a registering officer under this law.

Senator HUGHES. Yes.

The CHAIRMAN. And you come up to register.

Senator HUGHES. The presumption is you are going to be honest and fair.

The CHAIRMAN. That is the presumption; but we are talking about what might be done under this law, and what must be done.

Senator HUGHES. Not what must be done.

The CHAIRMAN. Yes; is that not true after all? You must convince me that you can read this Constitution in the way prescribed by the law. Who else have you to convince but the registering officer?

Senator HUGHES. Nobody but the man who is prepared to inquire into the matter.

The CHAIRMAN. And that is the registering officer.

Father KETCHAM. I contend that it should be taken out of the hands of this party; that it should not be left to the determination of one man, whoever he may be.

Senator HUGHES. Who should determine it?

Father KETCHAM. I think there should be no educational test at the present time for this population. You are admitting a large population into the United States. The Indians and Mexicans are the real children of the soil there. They, in a sense, are the people. Of course the others have come in later. It would seem unjust to bring a population of this kind into statehood and put the burden and duties of statehood on them, and then subject them to the educational test at the present time. Later on this might be done.

Senator HUGHES. Why not now, if it is proper ever?

Father KETCHAM. Because they have not had the opportunities of education that they will have under the State. The Spanish language has prevailed. Many of these people have not had the opportunity to learn. Experience demonstrates that the Mexican people make use of these opportunities when they have them. The children of the present time are eager to go to school. They learn well. I think to protect this population there should be a time limit set for the educational test—that it should not be made within a certain number of

years; and I should say twenty-five or thirty years would be a proper limit.

Senator HUGHES. You must bear in mind that we are making States; but you can not make a State and keep it a Territory. You have to bring it in on an equality with other States of the Union, or else keep it out.

Father KETCHAM. Have there not been some exceptions in some of the States that have been brought in? For instance, Oklahoma. That Territory did not come in just as the other States did. There is the prohibition question there, for instance.

Senator HUGHES. I do not think it amounted to anything.

Father KETCHAM. I am a citizen of Oklahoma, and I am willing to make the assertion that that enabling act is the cause of the state prohibition to-day.

Senator HUGHES. I know of some other States in which prohibition prevails where they did not have that provision.

Father KETCHAM. But this would never have taken place in Oklahoma had it not been for the enabling act.

Senator HUGHES. I mean this. I do not think it will be in the power of Congress beyond the time when the constitution is adopted to prevent the modification of the constitution or laws by the people after they become a State.

Father KETCHAM. I am not capable of judging as to that question. Of course, I do not know what Congress can do or can not do; but I suggest that if this can be done it should be done.

Senator HUGHES. I understand that is the idea. Would you set a time?

Father KETCHAM. Yes.

Senator HUGHES. For instance, so many years?

Father KETCHAM. Yes; to give these people a fair chance to get an education; to give them the opportunity and chance first, and then——

Senator HUGHES. Do you not think they have had that?

Father KETCHAM. I do not think so, because Arizona is sparsely settled, and they have not had many schools in the past years. They have not had the opportunities that others have had. Give them a good fair opportunity, and if they do not improve that opportunity, then let them suffer the consequences. But bringing them in now, I should like to see the original population guarded in its rights so far as possible.

Senator HUGHES. They have been in this country now something over sixty years, as a part of the American soil.

Father KETCHAM. Yes; but in the Territory they have not had opportunities. Under the territorial form of government they have not had a very efficient school system.

Senator HUGHES. Of course, they claim to us here that they have a very efficient school system.

Father KETCHAM. They may claim that, but the fact is that a great many do not read, and in traveling through the country certainly the schools do not appear to be very numerous.

Senator HUGHES. Of course, they are not very close together out in the rural part of the country.

Father KETCHAM. I contend that they have not had such advantages as would make it seem just to deprive them of suffrage because they can not read or write the English language.

Senator HUGHES. That is an assumption that they not only can not read and write, but that they can not learn.

Senator DILLINGHAM. Perhaps the doctor would give us his estimate of those people, morally and politically.

Father KETCHAM. That they can not learn? Is that the assumption?

Senator HUGHES. I say your idea that this deprives them of suffrage proceeds upon the idea that they not only can not read now, but that they will not be able if they do exert themselves under this requirement to learn to do the very thing the law requires.

Father KETCHAM. I do not see the sequence. I believe the Mexican can learn as well as anybody.

Senator HUGHES. I have had very intimate relations with them. I have been to school with them, and I know they can and do learn.

Father KETCHAM. I have been associated with Mexicans all my life, and I know they can and do learn. They are intelligent people; but they have not had the opportunities there that they should have had. I think they ought to have that opportunity before the educational test is made. The population, speaking generally, is a good population. The Mexican people are a good people. They are a people who, in a certain way, are industrious.

Senator HUGHES. Yes.

Father KETCHAM. They have all the qualities that go to make good citizens. Not only that, but they are inclined to be good citizens of the United States, too. I think the Mexicans here are apt to make comparisons between their condition here and the conditions in old Mexico, and argue that they are favored beyond the ordinary citizen of the old Republic. I think a great many Mexicans feel that way in this country. They may, of course, have some sentimental regard for the old Republic; but I think they realize that their condition is better here than the condition of their brothers there.

Senator HUGHES. Do you apply this to both New Mexico and Arizona, or only to Arizona?

Father KETCHAM. I would say both.

Senator HUGHES. Of course the population is greater in New Mexico.

Father KETCHAM. I know it is.

The CHAIRMAN. Will you permit me to say a word right there?

Senator HUGHES. Certainly.

The CHAIRMAN. New Mexico has passed no law such as Arizona has, applying this educational test.

Senator HUGHES. Yes.

The CHAIRMAN. Oh, no; Arizona only passed this peculiar law at the last session of the legislature.

Senator HUGHES. I understand.

Father KETCHAM. This educational test affects not only the Mexicans but the Indians. The Navajos are calculated to make good citizens of the Commonwealth. They are intelligent, industrious, good people, and they are going to be educated in a short time, or at least the young people are. They are going to school now, and I do not think that they, either, should be deprived of this right of suffrage just because at the present moment they can not speak the English language sufficiently, or that they can not comply with this test that is put upon them. I think they ought

to be given a little time as a matter of justice—as a matter of justice to the Indian and Mexican population in the proposed State of Arizona.

Those are the points I wanted to call attention to.

Senator HUGHES. You are assuming now that the Indians would become voters, as I understand you.

Father KETCHAM. They will, will they not? Are they not entitled to the suffrage?

Senator HUGHES. If they are kept in these tribal relations, they can not maintain a separate and distinct existence as a tribe and be citizens at the same time.

Father KETCHAM. I think that is the case in Minnesota.

Senator HUGHES. That is where they got allotments and gave up their tribal relations.

Father KETCHAM. Yes; of course, as soon as they got their allotments—

Senator HUGHES. I say that so long as the Government keeps them together, in tribes—

Father KETCHAM. The policy of the Government is to give them their allotments as soon as practicable.

Senator HUGHES. Well, I must admit that I do not know what the policy is to be with the Indians. It has varied a great deal.

Father KETCHAM. That is the general contention, however.

The CHAIRMAN. Do the Navaho in Arizona maintain their tribal relations now?

Father KETCHAM. No; not in the strict sense.

Senator HUGHES. You are thinking about the Pueblos?

The CHAIRMAN. No; I am speaking about the Navahos.

Father KETCHAM. They have no tribal autonomy, so far as I know.

The CHAIRMAN. Does that point apply as it did in the case of tribal governments in the Indian Territory, where the tribal relations were maintained?

Senator HUGHES. I do not mean where they legislate.

The CHAIRMAN. These people, as I understand it—and please correct me if I am wrong, Father Ketcham—

Father KETCHAM. Yes, Senator.

The CHAIRMAN. Are just people. Of course, they are Navaho, but do they live in tribal relations? They are industrious and would soon make good citizens.

Senator HUGHES. They have tribal relations like the Crow Indians.

The CHAIRMAN. There is nothing in the bill to prevent them from being citizens?

Father KETCHAM. I think they are citizens.

The CHAIRMAN. Or from becoming so.

Father KETCHAM. I think they are citizens. In New Mexico the Pueblos are all citizens. They are all citizens in New Mexico. The Pueblo Indian has not had his land in severalty, and he is governed by his tribal government, although contrary to the wishes of the Indian Office. He has been shrewd enough to maintain his tribal relations under three governments—Spain, Mexico, and the United States. By the terms of the treaty of Guadalupe-Hidalgo the Pueblo Indians have the same status under our Government that they had under the Mexican Government, and under the Mexican Government

they were citizens. Therefore they are regarded as citizens, although they do not have their lands in severalty. They hold their lands in common. I am not sure but that this applies to all Indians in New Mexico, Arizona, and southern California. I think it applies to the Mission Indians of California; I have been told it does. When I was in California I asked the question.

Senator HUGHES. The right of voting would not be a right that was guaranteed by the treaty.

Father KETCHAM. But if they are citizens—

Senator HUGHES. The electoral privilege is one thing, and the privilege of citizenship guaranteed by the treaty is another.

Father KETCHAM. But this enabling act should provide for that.

The CHAIRMAN. Had any of them voted up to the time of the passage of the last law?

Father KETCHAM. I am not able to answer that question positively, but I feel quite sure they have voted in New Mexico—that the Pueblos vote. I think they do. Mr. Andrews could give you information on that point. I would not like to make the assertion, but I feel convinced that they do, from what I have heard.

The CHAIRMAN. Do any of these Navaho own land?

Father KETCHAM. They have land in common. They have a reservation. They are reservation Indians. Some of them had occupied land outside of the reservation, but the reservation has been extended around these holdings, so that they could be allotted there. They are being allotted, are they not?

Senator HUGHES. I am not sure about that at this time. I know that in a bill pending before the Indian committee there is a provision to extend this prohibition zone for 25 miles beyond the boundaries of the reservation, and we have had before us—

Father KETCHAM. I favor that.

Senator HUGHES. We have had before us the suggestion that it would include Albuquerque, I know.

Father KETCHAM. It would include Albuquerque on account of its being so near the reservation of Isleta.

Senator HUGHES. I told them I should be glad to vote to make it absolute throughout the entire Territory so long as it was subject to federal legislation, but they did not seem to want to do that.

Father KETCHAM. I would like to be on record as favoring this temperance zone around the Indian reservations. I think it is a good proposition.

Senator HUGHES. It was in that connection that the fact that they were living in tribal relations was brought out.

Father KETCHAM. I know this much. Some time ago President Roosevelt, by an executive order, extended the Navajo Reservation, temporarily, so that it would include a number of Indian homes that were outside of the reservation. The Indians had gone out on the railroad lands, I presume, and had made homes, and these people had lived there a number of years. The railroad was willing to take lieu land for these Indian allotments, and the idea was that as soon as the allotments were made the reservation would be reduced to its original limits. This indicates to me that the work of allotment must be going on. I am under the impression that I met one of the allotting agents of the Government when I was down there the last time, who was engaged in that work.

Senator HUGHES. Was that in New Mexico?

Father KETCHAM. No; this extension of the reservation was in Arizona, if I am not mistaken. I know it was in Arizona and possibly in New Mexico, too. I know it was in Arizona. I am sure of that.

Senator HUGHES. I can not answer offhand whether that is allotted or not. I know reservations are preserved in both Territories at this time.

Father KETCHAM. And I understand that when Indians take land in severalty they have the right to vote.

Senator HUGHES. That was only in Kansas, and the Supreme Court held that they became citizens by allotment under certain treaties.

Father KETCHAM. In Minnesota they vote. They have taken land in severalty. I think it will be only a short time when the Navajos will take their land in severalty.

My sole motive in calling these points to the attention of the committee is to try to safeguard what I consider the rights of these Indians, and also of the Mexicans, who, perhaps, are not as active in their own behalf as other people would be.

Senator HUGHES. I want to say that as far as I am concerned I want to see the Indians treated fairly. As far as the Mexicans are concerned, I have a great many close, warm friends among them. We have quite a population of that kind in Colorado. There are some twenty-five or thirty thousand in the southern part of the State, many of whom I know intimately. Years ago I went to school with some of them. I have visited down there, and know a good deal about them. I never have thought it was wise to create a distinction between the Mexican citizens and anybody else. I thought to treat them all on an equality was the best way to wipe out those distinctions. I would not want to do anything unjust.

Father KETCHAM. I concur in that. This—what would you call it—act looking to prevent the educational test for a certain number of years would have this effect on all the people. Of course it is not a discrimination.

Senator HUGHES. It has no specification of nationality at all, I know.

Father KETCHAM. It would affect the Indians, the Mexicans, and the white people. There are some white people who can not read and write.

Senator HUGHES. Yes; who can not comply with the test.

Father KETCHAM. In some States where they have enjoyed the suffrage always you will find plenty who can not read.

Senator HUGHES. Yes, and a great many people think they are oftentimes perfectly competent to vote. There is a vast amount of shrewdness among many people who can not read.

Father KETCHAM. Certainly.

The CHAIRMAN. As a matter of fact, of course, the effect of the act will fall most heavily, and some think practically exclusively, upon citizens of Spanish descent.

Father KETCHAM. On account of the Spanish language?

The CHAIRMAN. On account of the Spanish language.

Father KETCHAM. That is true. They will bear the burden of this. That is what I feel.

The CHAIRMAN. It amounts, practically, to their disfranchisement.

Father KETCHAM. Certainly; that is what it amounts to.

Senator HUGHES. It does not amount to their disfranchisement, because you are now determining the qualifications for the electoral privilege.

The CHAIRMAN. No; I think I am technically correct. I do not want to enter into a debate here, but I think I am technically correct, even as well as substantially so, because under the laws of Arizona, as they existed up to the time of the passage of this act by the last legislature over the governor's veto, these people did have the right to vote, and did exercise the franchise, and they would exercise the franchise in forming the new constitution and in electing their new state officers in the State they have to make, as well as in the Territory in which they have voted heretofore, so that the new law actually does both technically and practically operate as a disfranchisement.

Father KETCHAM. I think, moreover, it would be a discouraging feature to these people. They would feel, of course, that it was directed against them. They need to be encouraged, because they have done very good work. I have a little example in mind. I was at Phoenix a short time ago. A great many of the Yaqui Indians from Mexico have come up in that neighborhood. They find conditions very disagreeable for them in Sonora, Mexico, and some of them have come to this country, and they are working hard. They are very industrious people in some ways, and quite superior Indians. They have a little village around a place called Tempe. They built a church there, some time ago, and a little school was put up. We saw to it that they got the funds to build the school. I went out to visit the school, and found a little Mexican girl teaching these Yaqui Indians. Her school is a very creditable school. The children recited for me. She has done well. She is a little Mexican girl of Arizona. Her pupils sang "My Country 'Tis of Thee." Of course these poor little Yaquis have no country. They have left Mexico, and do not belong to the United States. It was very pathetic. It is a Mexican teacher that is instilling these things into their minds and hearts. The disposition of these people is such that they should make good citizens in Arizona and in New Mexico, too. I think they ought to be encouraged. I do not think it ought to be said that this great Government, in admitting people into the Union—

The CHAIRMAN. Has discriminated against them as a class?

Father KETCHAM. Has discriminated against them as a class.

Senator HUGHES. I would not, from my knowledge of them, look upon that. I think it is true that there are Mexican families that adhere to the Mexican language, just as do people of other tongues here, and they never get out of it.

Father KETCHAM. The Germans and Swedes?

Senator HUGHES. But the great bulk, the large percentage, talk English.

Father KETCHAM. Oh, yes; the young people do.

The CHAIRMAN. But you are speaking of the people of middle age, and the old people.

Senator HUGHES. The very old people.

Father KETCHAM. The conditions in Arizona and New Mexico are somewhat different from the conditions in other places. Take

southern Louisiana. There the language has been French from the beginning. It is only recently that the English language is becoming very general among these people. That does not mean that they were not loyal to the country. Everybody spoke French, and it took some time to have the English language introduced there. It is not as in the case where a few French or German families go to settle in a place where they are all the time surrounded by English-speaking people. So it was in these territories. Spanish being the language of the place, the natives learned it. The missionaries learned it. Everybody did who had business with them. They did not have the incentive to learn English that other nationalities have had.

The CHAIRMAN. And they were the bulk at that time of the population?

Father KETCHAM. They were the bulk of the population at that time. It was not considered treason to speak Spanish in New Mexico or French in Louisiana, or Pennsylvania-Dutch in Pennsylvania, because they are talking it now in Pennsylvania.

Senator HUGHES. They speak English, though?

Father KETCHAM. Many of them speak English; some very little English; some of them do not speak English.

I am told you will find people employed on the railroads in Pennsylvania using this language, employees and others, and employees on various public works; so it would seem it would be rather an unjust aspersion on the Mexican to criticise him for not having learned English when in this particular we see him the same as all other people, they clinging to the mother language right along.

Senator HUGHES. There will be—and it is just as well to be plain about some of these things—a large population in both Arizona and New Mexico, just as there is to-day in Colorado, that is not Mexican at all, and that does not speak the English language.

Father KETCHAM. Not Mexican, you say?

Senator HUGHES. Not Mexican. We have also Hungarians——

Father KETCHAM. Certainly.

Senator HUGHES. We have Italians.

Father KETCHAM. No doubt about that.

Senator HUGHES. And Greeks. We have a great many.

Father KETCHAM. Yes.

Senator HUGHES. There are more of those, I think, in Colorado to-day who do not speak English than there are among the Mexicans.

The CHAIRMAN. Have you such a law as this in Colorado?

Senator HUGHES. No.

Father KETCHAM. The difference is that they are people who come over from Europe. The people I speak of are the natives of the soil, speaking Spanish not through any particular fault of their own, if it be a fault. They are born to it, but they are native to the soil.

The CHAIRMAN. They are not immigrants?

Father KETCHAM. Not in any sense of the word.

Senator HUGHES. But this would apply to immigrants.

The CHAIRMAN. Oh, yes.

Father KETCHAM. That would be a different proposition altogether.

The CHAIRMAN. You have not any of those, have you?

Father KETCHAM. Very few.

Senator HUGHES. They are coming into the coal lands, and they are beginning to come pretty rapidly.

The CHAIRMAN. This would apply to the Mexicans and Indians.

Father KETCHAM. Yes. They antedated the English-speaking people. They were there before the English-speaking people came.

Senator HUGHES. We had all that controversy over our juries. We had the mixed jury. We had an interpreter, who interpreted to the jurors the testimony and arguments, and the whole thing. We have had that. You can see the confusion that resulted. They have that in New Mexico yet, I believe. They had a few years ago.

The CHAIRMAN. It is conceded by everybody that it would exclude these people of Spanish descent, who have always lived in the country, from taking part in the formation of their constitution and in the creation of their new State. From your acquaintance with them would you say that they would regard that as a discrimination against themselves?

Father KETCHAM. I am under that impression. I am strongly convinced that they would. They are intelligent people. I think they would feel that they were discriminated against and that they were slighted. I think they should feel it. It is a natural consequence.

Senator HUGHES. But this Senate bill, which only requires six months' residence, would permit men who came into these new States from Mexico within six months, who were not there when that territory was acquired, and who did not come with the soil, and who might not know anything about our Constitution nor care anything about it, and who would be there temporarily, to exercise the franchise just as well as these men who were there and who remained and took their option under the treaty to remain.

The CHAIRMAN. Will you permit me to say a word?

Senator HUGHES. Certainly.

The CHAIRMAN. I think that statement might be perhaps modified. As I caught the statements of the men who have appeared heretofore, that would not be the effect of that; for at least the men coming across from Mexico into this country would have to be naturalized before any of these laws could apply to them; whereas the six months' provision, which is a different thing from the educational qualification, was intended to apply to streams, as we are told, of Americans coming into Arizona and New Mexico, and into Arizona particularly, from your State and from Indiana and Massachusetts and all over the country. I think that is due to their going there, as many of them go to Colorado for conditions of health. They got down there, wanting to stay, as I understand it, and are already American citizens; whereas the fellows coming across the border are not, and would have to be naturalized before any of these laws could apply. Is not that true?

Senator HUGHES. It is only recently in our State that we have required anything beyond the declaration of the parties of a desire to become citizens, and six months' residence. We had to change it. Now they have to be naturalized citizens.

Father KETCHAM. I think it should be provided that they should be naturalized citizens. I do not think that feature conflicts with the point we are bringing up.

Senator HUGHES. I only call attention to it to show that there might be that trouble.

Father KETCHAM. I think there should be a provision to prevent people coming from across the border. I admit that.

The CHAIRMAN. I presume that is provided for by the fact that individuals coming in from any other country would have to be naturalized before they could be citizens.

Father KETCHAM. I should say so.

The CHAIRMAN. The insertion of the word "naturalized" of course would not add anything, because the word "citizen" presumes that.

I have here quite a long letter that has been submitted to me by the chairman of the Committee on Indian Affairs, which was written to him by the Secretary of the Interior, bringing certain points to his notice, and the first is with reference to Indians not taxed. The Doctor thinks, as does Senator Curtis—and I want to ask you about it, too, Senator Owen—that that phrase "Indians not taxed," which excludes them from the privilege of citizenship, should not be in here, because it is an injustice.

Senator OWEN. Yes.

The CHAIRMAN. Another thing that the Doctor speaks of, among others, is the fact that intermarriage between Indians and whites should not be forbidden. I am inclined to think that is right.

Senator HUGHES. That is in this letter, is it?

The CHAIRMAN. Yes.

Father KETCHAM. I have left a memorandum of this amendment.

Senator HUGHES. Is that it [indicating]?

Father KETCHAM. No.

The CHAIRMAN. Is there anything else you want to point out?

Father KETCHAM. Those were the only points I had in view. Since the Senator has mentioned the move that is on foot to make some kind of a provision for a temperance zone around Indian reservations, I want to be on record as favoring that. I think it is a good thing if it can be done.

Senator HUGHES. There is a bill pending——

The CHAIRMAN. There is a provision submitted to the chairman of the Committee on Indian Affairs by the Secretary of the Interior, which appears to be very comprehensive, and without reading it all here, because we will consider it in executive session, it is that whenever these lands are allotted "they shall be subject for a period of twenty-five years after such allotment, sale, reservation, or other disposal to all the laws of the United States prohibiting the introduction of liquor into the Indian country."

They simply make a zone themselves, and throw it around.

I understand that the sum and substance of your observation and conviction would be, upon the question of this qualification proposition, that it means a disfranchisement of citizens of Spanish descent and Indian descent from the formation of the new State.

Father KETCHAM. That is as I understand it, that that will be the effect; and I contend that these people should not be excluded from taking part in the formation of their State; that they would have the first right. They antedate the English-speaking people there. The Indian, of course, was there originally, and the Spaniard was there, too, before we came there. So I think they should not be excluded. I think it is a matter of justice that they should be represented and should have a voice in it.

Senator HUGHES. You would not say that regardless of qualification, of course?

Father KETCHAM. I do not know what the qualification should be.

Senator HUGHES. There must be some qualifications, and you must make an election and determine what they are to be, of course.

Father KETCHAM. I would not put a qualification that they must necessarily speak the English language, and I would not put an educational test in the beginning.

The CHAIRMAN. You understand what this bill does with reference to that. It merely provides that the election for the constitution and for the officers under it, if adopted, shall occur under the law which has existed there down to the time of the last legislature.

Father KETCHAM. I understand it does not recognize that last one.

The CHAIRMAN. It does not recognize the last. That is all.

Father KETCHAM. I suggest that it would be advisable, if it be possible, to provide that there should not be an educational requirement made there for a certain number of years, in order to give these people a chance to demonstrate their willingness and ability to get an education.

The CHAIRMAN. You would go further than the Senate bill goes?

Father KETCHAM. I would go further than the Senate bill goes.

The CHAIRMAN. And not only ignore the last law, but provide that no such law should be passed for some time?

Father KETCHAM. For twenty-five or thirty years.

Senator HUGHES. These people were there when the Territory was acquired, and that was over sixty years ago. They have not learned to read English in that time, and those individuals are not going to learn.

The CHAIRMAN. He refers to the younger class.

Father KETCHAM. The younger class will.

Senator HUGHES. I am talking about those who were there when the land was acquired. They have not learned, and they never will, probably.

Father KETCHAM. They perhaps can not learn on account of their age.

Senator HUGHES. That is what I am getting at.

Father KETCHAM. But I want these people, the children of the soil, to be protected. They are the descendants of the original people, and they trace back their ancestors with pride to the first settlers as we trace back with pride our ancestors to the Puritans—or some of us do, at least.

Senator HUGHES. Some of us do not.

Father KETCHAM. These people trace their ancestors back to the first settlers of that country.

The CHAIRMAN. Are there any other points?

Father KETCHAM. That is all I have to say.

The CHAIRMAN. The committee thanks you very much for your kindness in coming down.

Father KETCHAM. I appreciate your courtesy very much.

The CHAIRMAN. If there is anything else you may want to say to the committee before it reports the bill, it would be glad to hear you.

Father KETCHAM. Thank you very much.

(The committee at 11.15 o'clock a. m. adjourned.)



